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The Solicitors' Journal

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Current Topics.

Law Officers' Opinions.

IN AN interesting speech delivered at a dinner of the Law and City Courts Committee of the Corporation of London last week, Sir WILLIAM JOWITT, the Attorney-General, said that since his accession to office he had had singularly little to do with the law, and had been chiefly occupied with matters of diplomatic and international interest. This kind of task falls periodically to be undertaken by the law officers of the Crown to whose opinions the government, as a matter of course, attach supreme importance. Indeed in the development of constitutional and international law their views as embodied in their considered opinions have in the past played a noteworthy part. Unfortunately most of them, at all events in recent times, have never been made available for the use of the profession. Over a century ago, GEORGE CHALMERS, who has been called almost the last of the extinct race of authors who were antiquarians rather than historians, collected and published in two volumes "Opinions of Eminent Lawyers," and as those eminent lawyers included men like SOMERS, HOLT, HARCOURT, RAYMOND, YORKE, MURRAY (Lord MANSFIELD) and PRATT, the volumes, notwithstanding their faulty arrangement, constituted a valuable contribution to the study of questions concerning the colonies, fisheries and commerce. Half a century after CHALMERS came WILLIAM FORSYTH, Q.C., with a much more valuable work, "Cases and Opinions on Constitutional Law and Various Points of English Jurisprudence," in which again recourse was had to the opinions of the law officers down to the time of Sir WILLIAM PAGE WOOD, afterwards Lord HATHERLEY. Claiming for those whose opinions he was able to present to the profession a distinction no whit behind that of those represented in CHALMERS' collection, he could say, with a happy variation of a familiar line of Horace, "*Vixere fortes post Agamemnon multi.*" In his compilation he had the assistance of a number of the government departments—indeed without their permission he could not have printed the opinions—but, more in sorrow than in anger, he complained that from the Foreign Office of that time he received no encouragement, his letter soliciting permission to publish a few legal opinions of old date receiving not even a formal acknowledgment. FORSYTH's volume was published in 1869—exactly sixty years ago—and it has had no successor. Has not the time arrived when a continuation of the law officers' opinions up to, say, twenty-five years ago, might, without any possible harm being done, nay, with much profit, be published? It would prove of great utility not only to lawyers but also to historians. In the United States a volume of the Attorney-General's opinions is published every few years and is welcomed as a contribution to the elucidation of many points in public law upon which little guidance is to be found elsewhere. Is there any valid reason why something of the same kind should not be available in England?

The Judge's Depositions.

IN THE *Goddard Case* now before Mr. Justice ROWLATT in the King's Bench Division, his lordship took occasion to comment very severely upon depositions. A witness was being cross-examined as to statements in his evidence given at the police court in the criminal proceedings against GODDARD. The judge is reported to have intervened with the observation, "I once had my depositions taken by a most experienced clerk and the document was wrong from beginning to end." This seems to imply that satisfactory depositions never can be taken, and if this really is so the sooner depositions are abolished altogether the better. But with all respect to his lordship he seems to be in a dilemma. Either he left on record as his sworn evidence a statement he knew to be incorrect, or he took steps to have it corrected before he signed it. In the former case he was at least as much to blame as the clerk. In the latter the deposition was corrected and was, therefore, a document upon which reliance could be placed. Perhaps, however, the judge's sally need not be taken too seriously.

Settled Land or Trust for Sale.

BY THE passing of the New Property Acts a very sharp dividing line has been drawn between settled land and land held upon trust for sale, and to draw that line was one of the main objects of the Acts. In the case of settlements executed since 1st January, 1926, there can be no debatable ground making it difficult to determine into which category the land falls. But as there are far more existing settlements executed before that date than have come into operation since, the question which EVE, J., discussed and decided in *Re White: Pitman* v. *White* [1929] W.N. 249, is still of considerable interest and importance. In that case an undivided share in real estate was settled in 1882 upon trust either to retain it unconverted or to sell with the consent of the tenant for life, and after her death to sell at the discretion of the trustees, and to hold the proceeds of sale upon the usual trusts of a marriage settlement. In 1882, of course, a share in land was still land and had not been reduced to the status of the cash representing the proceeds of sale. This share in land escaped that fate for in 1906 a partition was effected, and certain lands were assured to the trustees of the settlement in satisfaction of the original share, and at a later date there was an exchange of part of them. Sales had taken place from time to time, but since the new legislation the question whether this was settled land, and whether a vesting deed ought to be executed, or not,

became urgent. EVE, J., said it was a question of construction, which could not arise as to any settlement since 1925, for by s. 25 (4) of the Law of Property Act, 1925, where a disposition or settlement coming into operation after the commencement of the Act contains a trust either to retain or sell land, the same shall be construed as a trust to sell the land with power to postpone. A somewhat similar question came before ASTBURY, J., in *Re Johnson: Cowley* v. *Public Trustee* [1915] 1 Ch. 435, and after reviewing the authorities, he held following the decision in *Re Crips* (1906), 95 L.T. 865, that there was sufficient context in the subsequent clauses, and particularly in a common form power to postpone conversion, to enable him to hold that the will created a trust for sale. For the present case, EVE, J., came to an opposite conclusion, on the ground that the context of special powers given to the trustees indicated that the settlor contemplated that the land might and probably would be retained unconverted. There was no power to postpone conversion, and the powers given to the trustees were appropriate only to real estate, such as powers of management and leasing, exchange and partition. The case was much more like that of *Re Hotchkiss*, 32 Ch. D. 408, and the land therefore was settled land during the life of the tenant for life and a vesting deed had to be executed.

The Law of the Domicile.

THE MEANING of "the law of the domicile" was the subject of a very interesting judgment in *Re Ross; Ross* v. *Waterfield* (*Times*, 15th November, 1929). In that case the testamentary dispositions of one Janet Anne Ross were contained in four documents—a will in the English language, with two codicils in the same language, and a will in the Italian language. Both the aforesaid wills and codicils were valid as conforming with the requirements of English and Italian law respectively. The testatrix left considerable property both in England and in Italy, but left nothing to her son, the plaintiff in the action. The domicile of the testatrix, the said JANET ANNE ROSS, at the time of her death was Italian. The plaintiff claimed under Italian law that, notwithstanding the testamentary dispositions of his mother, he became entitled on her death as her only child to one-half of her immovable property situate in Italy, and to one-half of her movable property situate in Italy or elsewhere. Dealing with the immovable property, LUXMOORE, J., pointed out that the *lex situs* governed the succession of immovables and the *lex situs* was necessarily the law of the country where it was situate, as it would be expounded by the courts of that country. As to the movable property, it was agreed that by English law the succession to movable property, wherever situate, is governed by the law of domicile, which, in this case, was the law of Italy. In Italy, the law refuses to recognise domicile as governing succession and other personal rights, and accepts the law of the nationality as the governing law. The dispute in this case related to the meaning of the phrase "the law of the domicile." Does the phrase mean only that part of the domiciliary law which is applicable to nationals of the country of domicil (sometimes called the "municipal law," or "the internal law") or does it mean the whole law of the country of domicil, including the rules of private international law administered by its tribunals? LUXMOORE, J., held that the latter meaning was the correct one, i.e., that the "law of the domicile" means, so far as English law is concerned, the whole law of the country of domicil, including the rules of private international law administered by its tribunals, and not only that part of the domiciliary law which is applicable to nationals of the country of domicile. This means that if the Italian courts hold that the movable property of the testatrix ought to be distributed in accordance with English internal law as applicable to English nationals domiciled in England, the English courts will distribute such property in exactly the same was as if the testatrix was in fact at her death domiciled in England; if, on the other hand, the Italian courts hold that the said movable property should be distributed in accordance with the internal law of Italy applicable to Italian nationals, then the English courts will distribute such property in accordance with Italian internal law.

Vouching for Passports.

HOW SELDOM when one witnesses a document for a friend does one actually trouble to become acquainted with the exact nature of its contents. That one's possessions might carelessly have been signed away is quite within the bounds of possibility, and, despite the frequent reiteration of the necessity, in the interests of personal protection, of carefully perusing all written matter before signing, considerable laxity still prevails in that respect. In a recent case at Bow Street Police Court an American who was sentenced to six months' imprisonment for making a false statement for the purpose of procuring a passport had had his application for the passport signed by a doctor whose only knowledge of the applicant was based on the relationship of doctor and patient. No doubt the indiscretion of signing such an application on the strength of a very brief acquaintance has frequently been committed, but an indiscretion it certainly is, and one which only a realisation of its gravity can help to prevent. "It will be well to consider what a passport really is," said Lord ALVERSTONE, in *Rex* v. *Brailsford and Another* [1905] 2 K.B. 745; 49 SOL. J. 701. "It is a document issued in the name of the Sovereign on the responsibility of a Minister of the Crown to a named individual, intended to be presented to the Governments of foreign nations, and to be used for that individual's protection as a British subject in foreign countries, and it depends for its validity upon the fact that the Foreign Office in an official document vouches the respectability of the person named." In view of that definition and by reason of the possibility of serious international questions arising if ill-treatment is inflicted in a foreign country on a person holding a passport, due care should be taken before vouching anyone as a fit and proper person to have one. In the present matter at Bow-street Police Court, Sir CHARTRES BIRON said that the case showed how undesirable and discreditable it was for people to vouch for passports persons about whom they had no knowledge.

Jury Leaving the Box.

THE COURT of Criminal Appeal, quashing the conviction in the case of *R.* v. *Anderson*, had some observations to make on an awkward piece of mismanagement at the London Sessions. The accused gave evidence, and in cross-examination, was asked questions about the contents of a document which was not produced, and could not be produced when he denied having made a statement alleged to be contained in it. The breach of this "elementary rule" alone "made it necessary to quash the conviction," but there was a worse irregularity in the conduct of the trial. After the improper questions "had been put again and again," the jury retired at the request of the prosecution while the question of the absence of the document was discussed. That request "not only was not made by the defence, but was strongly and repeatedly objected to by the defence. Nevertheless, the jury left the box and various statements were made in their absence. Thereby an atmosphere of mystery and suspicion was created not unlikely to make the jury think that they had been asked to retire so that they should not hear something detrimental to the appellant." "It is difficult," added the court, "to imagine a case in which the jury could be asked to leave the box except at the request or with the consent of the defence while statements were made in their absence." The course adopted at the sessions is the more surprising in that the judge was an experienced lawyer and not a lay chairman who sometimes falls into error through lack of professional training; and the matter is not bettered by the fact that the Court of Criminal Appeal had to animadvert on the wrongful admission of evidence mentioned above, and upon a defective summing up upon the point of criminal intent.

Criminal Law and Police Court Practice.

Refusing Finger Prints.—A defending solicitor in police court proceedings recently protested against an entry on a police charge sheet: "Finger prints refused." He said, quite accurately, that a prisoner had a right to object to having his finger prints taken; and he added that it ought not to be recorded against him in a way which might be to his disadvantage. The chairman of the bench said the magistrates had not noticed it, and if they had it would have meant nothing to them.

So far as we know, police charge sheets are not usually placed before the magistrates, who have a register in which charges are entered, and in which we should suppose notes such as "finger prints refused" would not be reproduced. The charge sheet is usually considered to be a document belonging to the police, which need not be shown to anyone save court officials who may have need to refer to it. If it be to this extent private, there seems no harm in the making of notes upon it for purposes of entries in police books. We entirely agree that a refusal to have finger prints taken should never be mentioned to the prejudice of anybody, though of course it does not imply anything against the person who exercises his right to object. It is occasionally mentioned by the police as a reason for ignorance concerning a prisoner's antecedents, but it by no means implies anything against him.

Licensing Hours.—It was a little surprising to read last week of a witness before the Royal Commission on Licensing who favours the extension of drinking hours from 11 in the morning until 11 at night, without any afternoon closing, and the same hours on Sunday. What the brief newspaper report does not reveal is his reasons, which would be still more interesting than his opinion; and as he was a man who had held a responsible public position he would certainly not express so unorthodox a view without having thought the matter over and come to a serious conclusion.

The general opinion, so far as it can be ascertained, seems to favour the present hours; very few people, even in the trade, take the view that a return to anything approaching pre-war conditions is desirable, and, in particular, the afternoon break is regarded as definitely in the interests of true temperance.

Irregularity of hours in adjacent districts meets with much criticism, and the evidence of an experienced witness in licensing matters revealed a deplorable situation in the heart of London, where, according to this witness, there is a sort of stampede at 10 o'clock into the 11 o'clock districts, where men and women indulge in drunkenness and general disorder, disregarding all decency. In one locality the trams running after eleven have become known as "boozers' trams" and "drunkards' trams."

Human nature is so curiously constructed that unequal restrictions often create desire. If all houses throughout London closed at ten, people might at first regard it as a hardship, but they would soon get used to it. It is when they know that people in a neighbouring district enjoy greater latitude that they feel compelled to exercise their rights, as they regard them, by migrating to that freer district. They could almost as easily get used to 10 o'clock closing as 11 o'clock, always provided that there were reasonable facilities given to restaurants and other licensed houses to remain open for suppers as distinguished from drinking only. Since the greater part of London has managed with 10 o'clock closing for a considerable time, there is nothing revolutionary in suggesting that the other part should adopt the same hours.

Mr. William Bradford, of Hornsey, associated with the firm of Messrs. Marchant, Newington & Dommett, solicitors, 27, College-street, E.C.4, left estate of the gross value of £2,373.

Right of Appeal to the Privy Council.

[Contributed.]

A former Chief Justice of New Zealand is reported to have strongly opposed the "proposal of the Irish Free State to withdraw the right of appeal to the Privy Council." These words are peculiar and might perplex even the legal mind, but they will certainly mislead the man in the street who may be striving to acquire a knowledge of public matters such as this.

There cannot be any doubt that there is no right of appeal to the Privy Council from the Supreme Court in the Irish Free State. A right of appeal does not exist unless and until it has been granted to the Dominion, and if, as in the case of the Irish Free State, the Imperial Act which granted the Constitution does not expressly include a grant of the right of appeal to the Privy Council, then no such right can be enjoyed by that Dominion.

This position is made doubly certain inasmuch as the Irish Free State Constitution Act, which is an Imperial Act, goes so far as to point out, though quite unnecessarily, that "the decisions of the Supreme Court shall in all cases be final and conclusive, and shall not be reviewed, or be capable of being reviewed, by any other Court, Tribunal or Authority whatsoever." Therefore the Irish Free State cannot correctly make any proposal such as that to withdraw the right of appeal to the Privy Council, for no such right exists.

A phrase which probably was intended to be used was "The right to petition for special leave to appeal to the Privy Council"—a totally different matter. But even that phrase cannot correctly be used in this connexion.

The right to petition for special leave to appeal is one which exists without being expressly granted, and one which results from the fact that there is, and has been at all times, a prerogative of justice residing in the Crown. In other words, this right to petition for special leave to appeal, as opposed to the right of appeal, is a matter of Royal Prerogative, and it is clear that the Legislature in the Irish Free State, with the powers it enjoys under its present Constitution Act, has no power either to grant or to take away this right to petition for special leave—a right which is possessed by every inhabitant of the Irish Free State—not because it has not yet elected to remove the right, but because Imperial Parliament has not chosen to give the Irish Free State Legislature power to make this great amendment in its Constitution.

It must therefore be clearly understood that not only is the Irish Free State powerless to withdraw the right of appeal, but that a proposal to withdraw even the right to petition for special leave to appeal is absurd, for Imperial Parliament alone can bar this Royal Prerogative.

True it is that the Irish Free State can amend its Constitution, but it was decided in an important and recent case that power to amend the Constitution did not enable a Dominion to do so in such a way as to remove this right appertaining to the Royal Prerogative. The decision in the case further pointed out that such legislation could only be introduced within the Dominion provided power had been expressly granted by Imperial Parliament, not only to amend the Constitution, but also to amend it in such a way as to bar the Royal Prerogative in this respect.

South Africa, Australia and the Irish Free State are the three Dominions within the British Empire which have power to amend their Constitutions, but it is only in the Constitutions which were granted to South Africa and Australia that those additional words are found. Therefore South Africa and Australia are the only Dominions which have been empowered to legislate with the object of removing this right to petition for special leave to appeal to the Privy Council; and though the Irish Free State can amend its Constitution, it can take no step whatever in the direction of preventing appeals from

coming to the Privy Council, though the Dominion may be very anxious to do so. Australia has had this power since 1900, South Africa since 1907; and the fact that neither of these two Dominions has exercised this great power cannot be without significance. The right to petition for special leave still exists in these Dominions, though either or both of them could remove it to-morrow.

The question as to whether or not "the Dominions would agree to the abolition of the right" cannot therefore arise, for, as has been pointed out, two of the Dominions are already able to do so on their own initiative, while the Irish Free State could not agree to do something which is absolutely beyond her powers.

The real issue appears therefore to be whether or not it is advisable in the interests of the inhabitants of the Irish Free State that Imperial Parliament should grant the request and provide machinery whereby the Legislature in the new Dominion could abolish the right to petition for special leave. That is a question upon which one must not be partisan, but certain facts are manifest at the very outset, and present difficulties which might well be considered before such an important step is taken.

It cannot be forgotten that, almost forty years ago, the Privy Council, in the case of *MacLeod* v. *Att.-General of New South Wales*, imposed the extra-territorial limitation upon Colonial Legislatures—a limitation which works to such advantage in the interests of all the Colonies. It is the Privy Council, by reason either of its decisions or of its very existence, which enforces this rule. One can only imagine, not without misgiving, what would happen were the voice of the Privy Council silenced for ever on this point alone.

Further, excepting South Africa and Quebec, which were conquered, the common law in the Dominions is the common law of England, and it is the Privy Council alone which keeps the common law decisions in the Dominion courts in harmony with the common law not only of the Dominions but of the British Empire.

These are difficulties which present themselves to a constitutional lawyer. There are many others of a more controversial nature. They need not be mentioned here, save only this: The inhabitants of all these Dominions are subjects of the British Empire, and in these days when the Dominions are gaining, quite rightly, a greater degree of independence, the right to petition for special leave to appeal to the Privy Council appears to be the sole surviving right of any real and practical value which attaches to British subjects overseas.

Two Dominions obviously appreciate the greatness of the Judicial Committee—the great Court of the Empire—and one can hardly imagine that the first step towards its disintegration should be taken by Imperial Parliament.

Company Law and Practice.

VII.

No section of the Companies Act, 1929, has attracted wider attention, or provoked more discussion, than s. 149, which deals with disclosure by directors of their interest in contracts made with the companies of which they are directors. The discussion has centred round the question as to when a director is interested in a contract with a company of which he is a director in such a way as to require disclosure of that interest, and opinion seems divided as to what the answer is; and it may be thought with Lord WRENBURY that there is nothing to say about it except to wait and see what limitations judicial common sense will impose upon the extravagance of the Legislature. But it cannot be without its uses to discuss it, and see what light, if any, can be shed upon the section; indeed correspondents in these columns have already done so.

The first and third sub-sections are those round which controversy has raged most: sub-s. (1) provides that it shall be the duty of a director of a company who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company to declare the nature of his interest at a board meeting; and sub-s. (3) provides that a general notice given to the directors of a company by a director to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made.

Is a shareholding in a company an interest which requires declaring? The concrete case which has been considered is that of a director of a bank; suppose this bank makes loans to a company in which a director of the bank holds shares, has that director such an interest as requires declaration to avoid the penalties imposed by the section? It is difficult to escape the conclusion that he has, at any rate if he holds those shares beneficially. *Salomon's Case* [1897] A.C. 22, and *Macaura* v. *Northern Assurance Co.* [1925] A.C. 619, have been referred to in support of the contention that he is not so interested, but these are cases which emphasise the importance of the distinction between the corporation and the corporators. It is almost platitudinous to say that no corporator has any property, legal or equitable, in the assets of the corporation, but that is a totally different thing from saying that a corporator has no interest in a contract made by or with his corporation—he may well be vitally interested in such a contract, though he has no actual property in the chose in action itself. The case of *Transvaal Lands Company* v. *New Belgium (Transvaal) Land and Development Company* [1914] 2 Ch. 488, referred to by a correspondent, is a decision of the Court of Appeal, and seems to be in point here. The facts of that case are not such that they can conveniently be put forward in a short space, but the headnote to the report brings out succinctly the point which bears on the construction of this section. "Unless and so far only as authorised by a company's articles, the board cannot make a binding contract with any other company in which a member of the quorum holds shares. This rule applies whether the shares are held in trust or beneficially." In view of this decision, based as it is on the grounds of a conflict of the duty owed to the company as director with, in the case of a beneficial holding, interest, or, in the case of a holding in trust, the duty owed by the trustee to his *cestuis que trustent*, it will certainly be difficult to argue as regards a beneficial interest, that the word "interest" as used in the statute bears a different meaning from that it bears when used in the general law.

Further, as correspondents have pointed out, s. 149 (3) contemplates a notice being given in pursuance of the section to the effect that a director is a member of a specified company, which can only mean that shareholding, in some form or another, does constitute a disclosable interest. Lord WRENBURY has suggested that sub-s. (3) does to some extent modify the scope of the section, though such modification is quite inadequate, and at a later date we will give further attention to this sub-section, for it seems to have considerable bearing on the construction of a good deal of the rest of the section; but whatever modifications it may or may not have made, it certainly contemplates shareholding as a disclosable interest. So also does the proviso to article 72 of the new Table A, which uses the expression "member of any corporation."

With regard to shares which are held in trust, it is conceived that the argument put forward above does not apply with the same force, for in such a case it is not so much an interest in the true sense of the term, as a duty towards the *cestuis que trustent*. Looked at as a matter of general principle, however, there seems to be no valid reason for saying that whereas the Legislature contemplated, and was endeavouring to provide, proper safeguards with regard to the internal conflict which the law presumes to rage in the breast of every person whose duty and whose interest conflict, yet it made no effort to

provide similar safeguards with regard to the equally stubborn conflict between duty and duty. To which the reply is, of course, that the statute only uses the word "interest," and that there is no justification, on principle or otherwise, for extending the meaning of a plain word with a well-understood meaning used in a statute to embrace something to which it does not expressly extend.

But there can be no doubt that the proper course for a director to take is to be on the safe side, and, so far as is practicable, to disclose his shareholdings, both beneficial and on trust, to any company of which he is a director if there is any reasonable likelihood of dealings between the respective companies. Further legislation, or judicial decision, may narrow this down, but until such a happy event occurs the duty of the legal advisers of every director of a joint stock company seems plain.

(*To be continued.*)

Public Works and Commercial Morality.

[Contributed.]

The somewhat doubtful practice of contractors for public works making gifts to representatives of municipal and administrative bodies seems to be extending. Quite recently, in the inauguration of a public institution in Scotland, it was reported that, in the course of the proceedings, the Secretary of State for Scotland, the Convener of the Institution Committee and the Parish Council Clerk were all presented with "handsome mementoes" of the occasion "by the contractors, engineers and others engaged in the work." It seems a very gracious act on the part of such people to make these presentations. No one disputes that it is done often as on this occasion, with no *arrière pensée*. It seems also perfectly innocent for any Minister of State or for any public man or lady to accept a silver trowel or other gift as a remembrance of his or her graciousness in connection with such auspicious occasions. It is certain such public persons have no ulterior motives in their acceptance of such gifts. But is the practice right? And is it right that any contractors from motives, pure or impure, should remember in any way, whether publicly or secretly, the servants of their employers? Out of whose pockets do these gifts truly come? The man in the street may think that they come out of the pockets of the contractors, as a business outlay, like a hospital donation. But his impression is wrong. They come in fact and in law out of the funds raised by the ratepayers or taxpayers. Contractors making these gifts make some allowance for such contingencies in their estimates; but whether they do so or not, the legal effect is the same. In relation to the value of the whole work, that of the gifts may be or seem to be insignificant; but if contractors can make such presents, then their accounts should be so much less to their public employers. Whether the gifts value £5 or £100 or £1,000, it is of the worst example for any public servant, high or subordinate, unpaid or paid, to accept such gifts. It is not for the common weal that members themselves of public bodies should even innocently compromise in this way their position as public stewards. It is no palliation that the "recognition" may be so slight. The mischief is not assuaged by their presentation in public. It is not suggested for a moment that the recipients in the Scottish case cited did anything in the past or would do anything in the future to influence State or other public work in the direction of the same contractors, and any such motive on the part of the donors is expressly disclaimed. All, whether giving or receiving the "handsome mementoes" in question, were honourable, upright men. But the eyes of public men and officials can be opened to the possibilities of a practice, which, if not checked, grows till it ends in such graft as disgraced public men in San Francisco many years ago, and every now and again besmirches the fair fame of public men somewhere else. No business house with a reputation to lose will dream of offering secretly gifts of cigars, wines or motor cars to the managers, buyers or others in the employment and confidence of their customers. Tradesmen risking their reputation by doing this secretly, run the risk not only of civil action but of criminal punishment as well. Yet it is done in the dark, we fear, a great deal too much and all to the grave prejudice of commercial morality. Let the very semblance of such a practice wholly disappear out of all public services. Imagine contractors having the effrontery to offer to the town clerk, chamberlain, and engineer of the City of London "handsome mementoes" on the opening of a new Guildhall! Would not each and all resent such gestures? Accordingly, it is much to be desired that gifts or douceurs, especially to paid officials, on all such occasions, should be discountenanced. They may not be bribes, not being secretly or corruptly given, but why should a contractor recognise any servant of a public body in this way? And why should any public servant prejudice his own independence and his loyalty to his own masters in this way? It is possible that, if the practice were allowed to grow, such gifts, though openly made, might yet be held as made "corruptly" in the sense of the Prevention of Corruption Act, 1906. If such gifts were made in the form of sovereigns or cheques, it would be demonstrably loathsome. Presents in this form would be thrown back with disdain. Is there, however, any real difference, legal or otherwise, in taking, *palam aut clam*, the gold or cheques of a contractor under the disguise of a Sèvres dinner set or a bejewelled wrist watch? All contractors with public departments ought to abstain from the practice under consideration in view of the great evils to which it is too apt to lead. It is *ultra vires* of public authorities to approve of such gifts to their servants. The practice must not, however, be confused with the action of some public companies, e.g., shipping, giving mementoes over the launching of one of their vessels. Such companies can do with their moneys more or less as they like with the approval of the majority of their members. Not so with municipal or other public bodies. A single ratepayer can vindicate the illegality of such acts as are under consideration. It would be very much in the public interest if public men generally would abstain from the acceptance from contractors of "mementoes" of any kind. The public has a right to expect that, in any event, all salaried servants in their service should be above all suspicion; and, perhaps, this article will ensure that in their case such a practice will not be generally followed. "But he that hateth gifts shall live."

Re-opening of Moneylending Transactions.

The statutory authority of the court to re-open moneylending transactions on the ground that the interest charged is excessive, and that the transaction is harsh and unconscionable is contained in s. 1 of the Moneylenders Act, 1900. It is now further provided by s. 10 (1) of the Moneylenders Act, 1927, that where . . . "it is found that the interest charged exceeds the rate of 48 per cent. per annum, or the corresponding rate in respect of any other period, the court shall, *unless the contrary is proved*, presume for the purposes of s. 1 of the Moneylenders Act, 1900, that the interest charged is excessive and that the transaction is harsh and unconscionable, but this provision shall be without prejudice to the powers of the court under that section where the court is satisfied that the interest charged, although not exceeding 48 per cent. per annum, is excessive." In *Reading Trust Limited* v. *Spero* (reported in *The Times*, 11th December, 1929), the defendant, who was

about forty years old, was carrying on in London the business of a dealer in antiques. He borrowed various small sums from the plaintiffs during 1927, and most of these loans were punctually repaid. Since the 1st January, 1928 (i.e., the date on which the Moneylenders Act, 1927, came into operation), the defendant borrowed from the plaintiffs the following sums of money: £200 at 60 per cent. interest, repayable in thirteen monthly instalments of £20, and the balance in the fourteenth month; £100 repayable in three months, at 80 per cent.; and another £100 for three months at 80 per cent. The defendant having made default in payment of the amounts due in respect of each of the above loans, the plaintiffs claimed payment of such sums, with interest thereon. It was held by the Court of Appeal (affirming the decision of ROWLATT, J.), that the plaintiffs were entitled to judgment for the amounts claimed, notwithstanding the fact that in each loan the rate of interest exceeded 48 per cent. per annum. As SCRUTTON, L.J., pointed out in the course of his judgment: Before the Moneylenders Act of 1927, the borrower had to prove, to re-open the transaction, that the rate of interest was excessive, and the transaction harsh and unconscionable; after the Act of 1927, if the rate of interest exceeded 48 per cent. the moneylender, to save the transaction from being re-opened, must prove circumstances which showed that the rate was not excessive, and the transaction not harsh and unconscionable—in other words, the burden of proving facts which condemned or justified the transaction was shifted from the borrower to the moneylender. In the present case the moneylenders proved that (1) the borrower was a business man, forty years old, borrowing to provide working capital for a speculative business; (2) the borrower could give no security, only his personal promise to pay; (3) two of the loans were for short terms; and (4) there was no evidence of misstatements by the moneylender, weakness or lack of understanding by the borrower, or undue pressure. In all these circumstances the Court of Appeal were satisfied that the rates of interest were not excessive and that there was nothing harsh or unconscionable in the moneylender's treatment of the borrower. In the same case another interesting point arose under s. 6 of the Moneylenders Act, 1927, which provides in terms that no contract for the repayment of money or any security for the performance of the contract shall be enforceable unless a note or memorandum of the contract is signed personally by the borrower before the money is lent, or the security is given, and unless a copy thereof is sent to the borrower within seven days. SCRUTTON, L.J., expressed the view that when the contract contemplates a promissory note as security and there is a promissory note in the ordinary form not contradicting the contract, the fact that the note or memorandum of the contract does not set out the terms of the promissory note will not invalidate the contract; it may be otherwise if the security contains an onerous term not in the contract. His lordship, however, reserved any final decision on the question of the sufficiency of the note or memorandum where the security contains an onerous term not in the contract.

A Conveyancer's Diary.

Position of a Tenant for Life after Assignment or Bankruptcy.

The case of *Re Pawson's Settlement* [1929] W.N. 283, raises a question with regard to the position of a tenant for life who has no longer any beneficial interest in the settled land.

In that case the tenant for life had become bankrupt, but before dealing with the particular point for decision there, it may be useful to refer to the provisions of the S.L.A. regarding the powers of a tenant for life after assignment of his life interest.

In the first place, under s. 104 (1) of the Act, the powers of a tenant for life are not capable of assignment or release and do not pass to a person as being by operation of the law or otherwise an assignee of the life interest and remain exercisable notwithstanding any assignment. The law in this respect remains as before 1926. For the protection, however, of an assignee for value, it was, before 1926, necessary to obtain his consent to any exercise of the powers with an exception with regard to the granting of leases. That provision contained in s. 50 (3) of the S.L.A., 1882, is substantially re-enacted (so far as regards assignments which came into operation before 1926) in s. 104 (3) of the Act of 1925, with the addition of another exception to the effect that the consent of an assignee is not necessary to an authorised investment of capital money. It is, however, provided by s. 104 (4) of the latter Act that when an assignment comes into operation after the commencement of the Act the consent of the assignee shall not be necessary for the exercise by the tenant for life of any of the powers conferred by the Act, provided that (*a*) the assignee shall be entitled to the same or the like estate in or charge on the securities representing the land as he had in the land itself by virtue of the assignment; (*b*) if the assignment so provides or if it takes effect by operation of the law of bankruptcy, no investment or application of capital money may be made without his consent, except an investment in securities authorised by statute; (*c*) notice of any intended exercise of the powers shall be given to the assignee.

That being the state of the law generally applicable, *Re Pawson's Settlement* provides an illustration of an exception. In that case the facts were that by a marriage settlement, dated in 1902, lands were limited to the use of the husband for life, with remainder to uses for securing a jointure to the wife (which failed owing to her death in 1922), with remainder to trustees to secure a portions term and subject thereto to the use of the first and other sons of the marriage according to seniority in tail male with remainders over. In 1907 the husband was adjudicated a bankrupt. In 1926 the trustees of the settlement executed a vesting deed in favour of the husband. In 1929 the trustee in bankruptcy of the husband agreed to sell the life interest of the husband to his eldest son who was the tenant in tail in remainder. By a subsequent conveyance made between the trustee in bankruptcy, the trustees of the settlement and the purchaser, the estate was conveyed in such a manner as to extinguish the husband's life estate. The husband was then requested to execute a conveyance of the legal estate to the purchaser. That conveyance was demanded under s. 7 (4) of the S.L.A., 1925, which provides that, if by reason of forfeiture, surrender or otherwise, the estate owner of any settled land ceases to have the statutory powers of a tenant for life and the land remains settled land, he shall be bound forthwith to convey the settled land to the person who under the trust instrument or by virtue of the Act becomes the tenant for life or statutory owner.

Now, under the general rule as already stated, the husband had not ceased to have the powers of a tenant for life.

The exception to the rule, which was applied to the facts of this case, is to be found in s. 105 (1) of the Act. That subsection provides, in effect, that where the estate or interest of a tenant for life has been absolutely assured with intent to extinguish the same to the person next entitled in remainder, then if and when such remainderman would, if the tenant for life were dead, be or have the powers of a tenant for life, the statutory powers of a tenant for life shall cease to be exercisable by him and become exercisable as if he were dead.

It was contended that, notwithstanding his bankruptcy, the statutory powers of a tenant for life remained vested in him and that he could not be required to convey the property to his successor, the "intent" referred to in the section being the intent of the tenant for life.

Eve, J., held that the tenant for life must convey the land as demanded, and that the "intent" referred to might be that of any one in whom the life estate was vested.

I am afraid that there was a slip in my last week's article, to which my attention has been called.

A Correction. In writing of the provisions of s. 6 (8) of the Finance Act, 1894, I wrote that the duty might "be paid by eight equal quarterly instalments or sixteen half-yearly instalments." Of course "quarterly" should be "yearly."

Landlord and Tenant Notebook.

Rating the Owner—An Important Decision. A test case, the result of which may have consequences that at present may not be fully appreciated (because it only touches one side of a problem that has other aspects) was decided by the Divisional Court against the appellant in *Lowery* v. *Lord Mayor, &c., of Kingston-upon-Hull* (73 SOL. J. 819). The appellant is owner of small house property at Hull which came within a resolution of the rating authority directing it to be dealt with under s. 11 (1) of the Rating and Valuation Act, 1925. That section provides for the owner of such property to be rated in lieu of the occupiers, and it goes on to provide that—

"(*a*) The owners of any hereditaments in the area of that authority to which the direction applies shall, in the case of any rate made while the resolution is in force, be rated accordingly, and the rating authority shall make to any owner who being so rated pays the amount due by him in respect of the rate before the expiration of one-half of the period in respect of which the rate is made (or, if the rate is payable by instalments, one-half of the period in respect of which the instalment is payable), or such later date or dates as may be specified in the resolution, an allowance equal to 10 per cent. of the amount payable."

That allowance may in certain cases be increased under s. 3 of the Rating and Valuation Act, 1928, to 15 per cent.

On 31st January in the present year the resolution to rate the owners of this class of property was duly passed by the Hull City Council, and it was subsequently advertised in the local newspapers that they would receive—

"an allowance equal to 15 per cent. of the amount due by them in respect of the rate as follows:—(*a*) as to the first instalment if paid not later than July 31; and (*b*) as to the second instalment if paid not later than January 31."

Apparently the (still doubtful) question of the liability of the owners to make over the full amount of this allowance to the occupier was being debated locally, and the appellant, amongst others, had adjusted rentals without providing for this to be done. The subject attracted the attention of members of the Hull City Council, and on 2nd May that body passed the following resolution:—

"That the city treasurer be instructed to issue immediately a demand for payment of the compound rate in all cases where it is brought to his notice by the production of a notice of increase of rent on account of an increase of rates under the Rent and Mortgage Interest Restriction Acts, or otherwise, that the landlord or his agent has not allowed the full composition allowance.

"That the town clerk at the expiration of seven days from the date of service of the demand be instructed to take proceedings for the recovery of the compounded rate if it be not already paid."

On 15th May the appellant received a demand for payment of the half-yearly instalment (£3 1s. 10d.) "now due from you," and the demand bore on its face a statement that "if the amount be paid not later than July 31, a compounding allowance of 15 per cent. will be made." With this demand came a letter from the city treasurer intimating that unless the amount demanded were paid *within seven days* thereafter proceedings would be taken for its recovery. Such proceedings were in fact taken under the Poor Rates (Assessment and Collection) Act, 1869, the appellant being summoned for non-payment of £1 10s. 11d., one-half of the amount demanded, that sum representing one quarter's rate. The stipendiary magistrate at Hull issued a distress warrant for that sum, and stated a case for the High Court upon the question whether the city council, as the rating authority, had or had not abrogated their powers under the Act of 1869 by specifying an extended period during which the owner could claim the 15 per cent. allowance.

The Divisional Court held that the decision of the stipendiary magistrate was right, Lord Hewart, L.C.J., remarking that in the present case it was important to observe that the rents were payable weekly, since that fact brought the case within the statute of 1869. It had been urged that the appellant ought not to have been asked to pay that or any sum, inasmuch as the effect of s. 11 of the Act of 1925 was to postpone the right of the rating authority to demand the rate: but that view omitted to consider s. 2 of the Act of 1869—

"No such occupier (i.e., by s. 1, an occupier of any rateable hereditament let to him for a term not exceeding three months) shall be compelled to pay to the overseers at one time or within four weeks a greater amount of the rate than would be due for one quarter of the year."

The appellant in this case had not been required to pay a half-year's rate, but a quarter's rate, and it was still open to the ratepayer to obtain the allowance in full by paying the second quarter's rate before 31st July. The court therefore took the view that the two statutes were not contradictory, and that payment of one quarter's rate did not jeopardise the right of the ratepayer to obtain the full allowance.

This decision therefore makes two things clear. One is that where this class of property is concerned and demand is made for one quarter's rates by the local authority, that demand must be met. The other is that when the amount covering one quarter (being half the amount of the half-yearly sum subject to discount) has been paid, the whole of the discount may be deducted from the second instalment of the half-year, provided it be paid within the specified time for earning the allowance.

Our County Court Letter.

THE RIGHT TO SHOOT TRESPASSING DOGS.

(*Continued from* 73 SOL. J. 250.)

III.

FOUR recent cases show the need for circumspection in exercising the above.

In *Pritchard* v. *Davies*, at Pwllheli County Court, the plaintiff claimed £5 5s. in respect of a dog shot by the defendant. The dog had been trained to help the plaintiff in his occupation as a rabbit catcher, and (in consequence of information received) the plaintiff obtained permission to search the defendant's farm, with the aid of a police constable. They found a bunch of hair resembling that of the plaintiff's dog, and the defendant's case was that he saw a dog seizing the ear of a sow, and chasing it to the river. He saw the dog running away, and shot it because it was pursuing the pig, as he had been much worried by dogs, the latter being attracted by the offal brought from the town to feed the pigs. Corroborative evidence was given by the defendant's niece, who produced the collar worn by the dog, but the plaintiff denied that the collar was his. His Honour Deputy Judge O. G. Morris held that the dog had been shot after the damage had been done, and—as the defendant had no right to shoot unless it was necessary to protect his property—judgment was given for the plaintiff for £4 4s. and costs.

In *Hubbard* v. *Mills*, at Loughborough County Court, the plaintiff claimed £10, the value of two dogs shot by the

defendant. The dogs were Scotch collies, trained for cattle, and both were kept in the farmyard, but—although one was chained up—the plaintiff denied that it had a habit of straying. The defendant's case was that he had been awakened at 1 a.m. by a noise, apparently caused by foxes, but which he found to be due to two dogs worrying two Angora rabbits in a wire fowl run. The rabbits were valuable for breeding and for their fur, being worth 15s. each, but were found dead by the defendant. He accordingly shot the dogs, which had been too mad in their chase to be stopped by a warning shot, and also had no collars. His Honour Judge Haydon, K.C., observed that, whatever a man might do to protect his property, he could not shoot for revenge after its destruction. The plaintiff was therefore entitled to judgment for £5 in respect of one dog and £2 10s. for the other, with costs.

In *Sleigh* v. *Tyler*, also at Loughborough County Court, the plaintiff claimed £25 as the value of a sheep-dog shot by the defendant, and also for the loss of four puppies. The defendant's case was that the dog was in hot pursuit of a rabbit, and that the shooting was justified for the protection of property. His Honour Judge Haydon, K.C. (in a reserved judgment) stated that the defendant was employed by a farmer, whose tenancy agreement provided that he should not make or keep rabbit warrens. The defendant's evidence was accepted, viz., that the dog was pursuing a wild rabbit, which was in process of being seized, and that the shooting was necessary to preserve the rabbit's life. The shooting could only be justified, however, if it was essential for the preservation of property, and there was no evidence of the existence of a warren, or that the rabbit was in it when pursued. The result was that the defendant had no sufficient property in the wild rabbit to entitle him to shoot, and a valuable dog had been sacrificed for the sake of an almost useless rabbit. His Honour was not satisfied that the death of the puppies was a necessary consequence of the shooting of their mother, and judgment was therefore given for the plaintiff for £15 and costs.

In a recent case at Eastbourne the corporation were sued for £10 10s. as the value of a fox terrier, alleged to have been shot while chasing sheep. His Honour Judge Sir William Cann observed that the dog had often been seen, in the same sheep fold, in circumstances which would have justified an application to the magistrates for its destruction. The evidence showed, however, that the dog was not actually attacking property when shot, but was running away. Judgment was therefore given for the amount claimed, with costs.

Practice Notes.

FARMERS' LIABILITY FOR ANIMALS ON THE HIGHWAY.

V.

(*Continued from* 73 Sol. J., 793.)

In the recent case of *Ambury* v. *Wilden*, at Monmouth County Court, the plaintiff claimed £9 19s. 6d. for damage to his motor car by the negligent driving of a cow across the road from one field to another. The plaintiff was approaching the fold gate of defendant's farm at Bream, on the Lydney road, when the cow dashed out and collided with the car, smashing the radiator and two lamps. The plaintiff had no warning of the cow's approach, and—although he was only travelling at from twelve to fifteen miles an hour—his brakes failed to stop the car before the impact. The defendant's case was that he looked up and down the road before he drove the cow out, and corroborative evidence was given to the same effect. His Honour Deputy Judge Hugh Jones, K.C., held that the claim failed, but that neither party should be allowed costs.

On the other hand, a farmer may be entitled to recover the value of damaged animals, as in the recent case of *Ainge* v. *Chaplan*, at Alcester County Court. The plaintiff's flock of sheep were being driven home after dipping, when they were run into by defendant's motor car, which killed a ewe and a lamb. The defendant had approached over the top of the hill, and—although the drover had waved and shouted—the defendant was driving too fast to pull up in time. His Honour Judge Macpherson observed that, while farmers had a perfect right to drive sheep along the roads, they must see that proper care and skill were used in avoiding a collision. The defendant, however, had had ample time to exercise acts of good driving, and judgment was given for the plaintiff for £5 10s. and costs.

THE REMUNERATION OF AGRICULTURAL VALUERS.

In the recent case of *Barber* v. *Birchley*, at Hereford County Court, the plaintiff claimed £35 as commission for introducing the defendant to the trustee of a farm leased by the defendant's son. The above sum was calculated at 1½ per cent. on £2,500, the amount of the valuation, although it was admitted that the plaintiff had had nothing to do with the valuation, but he had travelled about 170 miles in searching for a suitable farm. The defendant's case was that he never agreed to pay commission, and had merely engaged the plaintiff to find a farm—a service for which the plaintiff had been paid an ample fee of £5 5s. It transpired that there had been a suggestion that the plaintiff should also apply for a fee from the trustee, and his honour Judge Roope Reeve, K.C., remarked that the plaintiff should have repudiated any offer involving a commission from both sides, as one of them must be a bribe. Expert evidence was given as to the mode of charging for valuations, and his honour expressed his disapproval of the system whereby a valuer for an ingoing tenant had two interests, viz., one that he should make the valuation as low as possible in the interests of the tenant (his client) and the other than he should make it high in his own interests, i.e., with a view to payment of a percentage of the valuation. The defendant's expert evidence was to the effect that the claim was excessive, and—as the plaintiff had not acted in the valuation—six or ten guineas would suffice. His honour observed that there was no customary scale of payment for a mere introduction, and judgment was given for the plaintiff for £8 8s., including the £5 5s. already paid, with costs.

Correspondence.

Company Law—Disclosure of Director—Interest in Contracts.

Sir,—Following on the correspondence of last week, may I point out that Mr. Dingle, whose letter appeared in your issue of the 23rd November, seems to have overlooked *Transvaal Lands Co.* v. *New Belgium Land Co.* [1914] 2 Ch. 488, and *Todd* v. *Tobinson* (1884), 14 Q.B.D. 739, cited in the former. These cases seem to be conclusive that the holding (even as trustee) of a share in a company makes the shareholder "interested" in a contract made by the company. *Todd* v. *Robinson* was cited in argument in *Lapish* v. *Braithwaite* [1926] A.C. 275, which Mr. Dingle quotes as an authority to the contrary.

Norwich. Ernest I. Watson.
3rd December.

P.S.—May I add a postscript with reference to the letter of Mr. Dingle in your issue of the 7th inst.? *Macaura* v. *Northern Assurance Co.* [1925] A.C. 619, only decided that a shareholder had no interest in any specific item of property of the company (so as to warrant an insurance of that item). If it had the effect attributed to it by Mr. Dingle, then it must follow that a director of one company who held 99 per cent. of the shares in a second company is not interested in the second company for the purpose of a contract between the two companies—a *reductio ad absurdum*.—E. I. W.

Companies Act, 1929—Disclosure by Directors of Interest in Contracts.

Sir,—Dr. Watson's letter was written before my letter of the 30th ult. appeared in last week's issue. The dates of the cases are material. *Todd* v. *Robinson* was quoted in 1924 to the Court of Appeal in *Lapish* v. *Braithwaite*. The Lords' decision in *Macaura* v. *Northern Assurance Co.* was given in 1925. When *Lapish's Case* was heard by the Lords in 1926, according to the report in [1926] A.C. 275, no cases were quoted.

Transvaal Lands Co. v. *New Belgium Land Co.*, as well as *Todd* v. *Robinson*, appears impliedly to be repealed by *Macaura's Case*.

Sheffield. F. B. DINGLE.
9th December.

Sir,—The letter from Mr. F. B. Dingle in your issue of the 23rd ult. on this topic is interesting, but I suggest that the authorities which your correspondent quotes are not directly in point, and that the opinion which was given to Mr. W. W. Paine correctly interprets the law.

The case of the *Transvaal Lands Co.* v. *New Belgium (Transvaal) Land and Development Co.* [1914] 2 Ch. 488, decided that a director of a company was interested in a contract made with another company if the director held shares in the latter company, whether beneficially or as a trustee, and that, subject to the provisions in the articles, the directors of the first company could not enter into a contract with the second company.

It would seem, therefore, that to comply with the provisions of s. 149, any director of a company who is a shareholder in another company must declare such fact at a meeting of the directors of the first company, if the two companies have entered into or propose to enter into contractual relationships.

St. Albans, A. G. DAVIS.
Herts.
26th November.

"The Church's Power to Punish."

Sir,—Your article of "The Church's power to punish," in your issue of the 2nd ult., has brought to my mind another aspect of ecclesiastical jurisdiction which has recently come under my observation.

A client of mine was recently buried in the churchyard of an outlying suburb of London now closed for general burial. The fees charged by the vicar for the burial and the erection of a monument amounted to £25.

From an extract from the report of the medical officer to the local urban council (enclosed) it would appear that the vicar is in the habit of charging fees running in some cases up to nearly £70 for burials and the erection of monuments.

Now the question arises whether a vicar having, as I believe is invariably the case, only an interest for life in the living, can charge these fees, which with the greatest diffidence I suggest represent capital payments.

It would be of the greatest interest to me and possibly to many other of your readers if you could see your way to deal with this problem.

Eastcheap, E.C.3. E. S. W.
2nd December.

[Where there is no right of burial, as in the case of a non-parishioner, it has been laid down that the person whose licence is necessary may "stand upon his own price": see *Dean and Chapter of Exeter's Case* (1707), 1 Salk. 334. See also *Nevill* v. *Bridger* (1874), L.R. 9 Ex. 214, and the law as to fees generally is discussed in *Re The New Parish of Haigh with Aspull* [1919] P. 143. If a fee has to be paid, the executor or other person paying it seems hardly concerned whether, as between successive incumbents, it should be appropriated to capital or income, but, since such fees are chargeable during each incumbency, the equity would seem to be that each should take for himself what he receives, otherwise future incumbents would be overpaid.—ED., *S.J.*]

Agricultural Credits Act, 1928.

Sir,—In connexion with the above Act (which was dealt with in "A Conveyancer's Diary" on p. 791 of your issue of the 30th November), the new County Court Rules should be noted. The County Court (No. 2) Rules, 1929, are printed in your issue of the 23rd November. By para. 6, Ord. XXV, r. 7, is revoked and a new rule substituted therefor, the effect of which is that where a warrant of execution is issued against a farmer there shall be furnished a certificate (dated not more than three days before) of the result of a search at the Land Registry as to the existence of any charge registered under this Act.

We really ought not to feel surprise at anything effected by departmental engendered legislation. In the case of this Act, however, one cannot avoid remembering that for several generations the Bills of Sale Acts have been founded on the principle that credit should not be obtained by the apparent ownership of goods which have been pledged. Judging from Pt. II of the Act this principle apparently is no longer to prevail in cases where the debtor is a farmer and the creditor is a bank approved by the Minister of Agriculture. The effect of Pt. II is to make a bank a privileged creditor of a farmer to the detriment of the general body of creditors.

Canterbury. PERCY MAYLAM.
3rd December.

Reviews.

The Secretarial Handbook, being a Practical Guide to a Secretary's Duties under the Companies Act, 1929. E. WESTBY-NUNN, B.A., LL.B. 2nd Edition. 1929. pp. xv and (with Index) 240. London: The Solicitors' Law Stationery Society, Limited. 6s. net.

The coming into force of the Companies Act, 1929, has had a far-reaching effect not only upon the legal profession but also upon a large number of laymen; amongst this latter class that very hard-worked individual, the company's secretary, is by no means the least important and it is hardly a matter for wonderment that some special endeavour should be made to assist him to keep in mind the many new matters which must now receive his close attention.

The new edition of this handbook is designed particularly for the use of secretaries, but there is little doubt that its appeal should not be limited to the members of that profession alone. In form it consists of a clear statement of the duties of a secretary in the various affairs of the company which come within his province or control, emphasising, by means of printing in italics, all those occasions on which those duties have been altered or added to as a result of the new Act. The short table of Reminders for Secretaries of Existing Companies is excellent in idea and should prove of considerable utility in preventing the omission of some important precaution or duty. The duties themselves are divided into six headings of those attending formation, incidental to the conduct of business, relating to shares, meetings, charges and debentures, and extraordinary duties, and a chapter is allotted to each. A chapter entitled Secretarial Programmes summarises most excellently the duties more fully set out in the previous chapters, and together with the above-mentioned table of reminders should go a long way towards providing the secretary's *vade mecum*. There is an appendix containing some

forty-seven very practical forms, many of them official, also one of definitions.

A handbook of practical utility, lucidly written and not not encumbered by authorities or other unnecessary matter, in respect of which Mr. Westby-Nunn should earn the gratitude of most secretaries and many other officers.

The Law Relating to Motor Cars, with special reference to Scotland. By James Randall Philip, M.A., LL.B., Advocate. Edinburgh: W. Green & Son Ltd. 30s. net.

The claim made in the preface of this book is justified. It is "a simple but comprehensive text-book of motor car law," and although it has special reference to Scotland, it will, especially by the appendix of statutes and regulations, be of use to English lawyers. But the flow of departmental regulations overtakes any compilation, and already there is new matter not here included.

It is a little pathetic to read in law books of the rights of foot passengers, for the law is being so steadily ignored that it is in effect changing rapidly. Warning is so universally considered sufficient without seeing that it is attended to, that *Clerk* v. *Petrie* and other cases noted at pp. 63, 64, are really passing into the limbo of the obsolete. Nor is *Auld* v. *M'Bey* any more effective in keeping a following vehicle at a reasonable distance from the one in front.

But we are going to have a new and comprehensive law of road transport which will profoundly modify the existing law, and make necessary new editions of all the text-books on the subject. It is a little idle to discuss it until we see how the new legislation gets finally shaped.

Books Received.

Bankruptcy Act, 1928. Forty-sixth General Annual Report by The Board of Trade (with statistics for the years 1884-1928). 1929. H. M. Stationery Office. 2s. 6d. net.

The Statutes. Second Revised Edition. Vol. XXIII. From the Session of the Second and Third to the Session of the Sixth and Seventh years of King George V, A.D. 1912 to 1916. Royal 8vo. pp. xx and (with Index) 916. Vol. XXIV. From the Seventh and Eighth years to the Session of the Tenth and Eleventh years of King George V, A.D. 1917 to 1920. pp. xxiv and (with Index) 1208. H.M. Stationery Office. £1 5s. per volume.

The Shareholders', Directors' and Voluntary Liquidators' Legal Companion: A Manual of Every Law and Practice under the Companies Act, 1929, *with Appendix.* Sir Francis Beaufort Palmer. Twenty-third Edition, by Alfred F. Topham, K.C., and A. M. R. Topham, B.A., Barrister-at-Law. 1930. Crown 8vo. pp. viii and (with Index) 304. London: Stevens & Sons, Ltd. 4s. net.

Elements of Company Law. Harry Farrar, M.C., M.A. (Oxon), LL.B. (Lond.), of Lincoln's Inn, Barrister-at-Law. 1929. Medium 8vo. pp. xvi and (with Index) 333. St. Albans: The Donnington Press. London: The Gregg Publishing Co., Ltd. 7s. 6d. net.

The Journal of The Auctioneers' and Estate Agents' Institute of The United Kingdom. Vol. 9. Pt. 12. December, 1929. Issued only to members. 29, Lincoln's Inn Fields, W.C.2.

Isalpa. The Monthly Journal of the Incorporated Society of Auctioneers and Landed Property Agents. Vol. III. No. 36. December, 1929. Subscription Rates (to non-members), 7s. per annum, post free. London: 26A, Finsbury Square, E.C.2.

Lloyd's List Law Reports, Michaelmas Sittings, 1929. Vol. 35. No. 4. (Pages 71 to 97.) 28th November, 1929. Reprinted (with additions) from *Lloyd's List and Shipping Gazette.* By subscription.

Notes of Cases.

Court of Appeal.

Hirst *v.* Liverpool Victoria Friendly Society. Clark *v.* London and Manchester Assurance Co.

Scrutton, Lawrence and Greer, L.JJ. 29th November.

Insurance—Industrial Life Assurance—Friendly Society—Industrial Assurance Company—Insurance on Children's Lives—Sums assured exceeding Statutory Limits—Proviso Limiting Amount Assured or Payable—Legality of Policies—Friendly Societies Act, 1896, 59 & 60 Vict. c. 25—Industrial Assurance Act, 1923, 13 & 14 Geo. 5, c. 8, s. 4—Friendly Societies Act, 1924, 14 & 15 Geo. 5, c. 11, s. 2.

Appeals from decisions of Rowlatt, J.

The plaintiff, Hirst, claimed from the Liverpool Victoria Friendly Society repayment of the premiums paid by him on two policies of industrial assurance, namely, a policy taken out by him on 17th April, 1920, on the life of his daughter, then aged three months, at a premium of 2d. per week, and a policy taken out on 15th August, 1925, on the life of his son, then aged one month, at a premium of 2d. a week. The ground of his claim was that the policies were illegal, as under the former policy the society insured a sum exceeding the amounts specified in s. 62 of the Friendly Societies Act, 1896, and under the latter policy a sum exceeding the amounts specified in s. 2 (1) of the Friendly Societies Act, 1924. Section 62 of the Friendly Societies Act, 1896, enacted that a friendly society shall not insure or pay on the death of a child under five years of age any sum which, added to any amount payable on the death of that child by any other society, exceeds six pounds, or on the death of any child under ten years of age any sum which, added to any amount payable on the death of that child by any other society, exceeds ten pounds. Section 4 of the Industrial Assurance Act, 1923, extended the provisions of the above section of the Act of 1896 to industrial assurance companies. Section 2 of the Friendly Societies Act, 1924, provided that a friendly society should not insure or pay on the death of a child under certain specified ages any sum which exceeded, or which when added to any amount payable on the death of that child by any other society or by any trade union or industrial insurance company exceeded the amounts specified in the section. On the former policy there was a footnote which provided that in any case where the amount insured would exceed the limits of assurance specified by the Friendly Societies Act, 1896, the sum assured should be limited to the statutory amount. The latter policy contained an exception that the amount payable under the policy was subject to the limitations of the Friendly Societies Act, 1924.

The plaintiff, Mrs. Clark, made a similar claim against the London and Manchester Assurance Company in respect of the premiums on a policy of whole life assurance and a policy of endowment assurance dated 2nd February, 1925, on the life of her son, then aged one year. She alleged that the policies were illegal as insuring a sum in excess of the limits specified in the Friendly Societies Acts, 1896 to 1924, and the Industrial Assurance Act, 1923. A memorandum was indorsed on the whole life assurance policy to the effect that the life was also insured under the endowment policy. Accordingly, the full sum assured would not come into operation until the attainment of the age of ten years. The combined amount payable in the event of death should not exceed the statutory amount.

Rowlatt, J., held that all the policies in question were illegal, on the authority of *Harker* v. *Britannic Assurance Co., Ltd.* [1928] 1 K.B. 766; 72 Sol. J. 121, and gave judgment for the plaintiff in each case. The society and the insurance company appealed.

The Court (Scrutton, Lawrence and Greer, L.JJ.) allowed the appeal. The cases were distinguishable from

Harker v. *Britannic Assurance Co., Ltd., supra.* By reason of the provisoes indorsed on the policies limiting the sums insured to the statutory amounts, the policies in each case were valid and the plaintiffs' claims failed. Appeal allowed.

COUNSEL: *Gavin Simonds*, K.C., and *G. R. Blanco White*; *Sir Walter Greaves Lord*, K.C., and *Sir George W. H. Jones.*

SOLICITORS: *Kingsley Wood, Williams & Co.*; *J. R. Cort Bathurst.*

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

High Court—Chancery Division.

Gwyon, *In re*; Public Trustee *v.* Attorney-General.

Eve, J. 15th November.

WILL—GIFT OF RESIDUE—TRUST FOR "FOUNDATION FOR CLOTHING BOYS"—CONFINED TO A LOCALITY—PERPETUITY CHARITY—BONA VACANTIA.

This was a summons taken out by the Public Trustee to determine whether a gift of residue to establish a fund for clothing boys was a valid and effectual disposition. The Rev. John Gwyon, the testator, died on 27th December, 1928, and by his will dated 25th May, 1912, he appointed the Public Trustee to be his executor. He died a bachelor and in as far as his estate was not effectively disposed of it would devolve on the Crown under the Administration of Estates Act, 1925. He devised and bequeathed all his real and personal estate to the Public Trustee upon trust for sale and conversion, and directed the residue to be transferred into the name of the Official Trustee of Charitable Funds in trust for a charitable foundation to be called Gwyon's Foundation for Clothing Boys. The trustees of the foundation were to be the members for the time being of the Farnham Urban District Council, and the net yearly income of the foundation was to be applied in providing boys who were eligible under the provisions of the will with knickers. All boys aged thirteen or thereabouts, the sons of parents resident in Farnham, were to be eligible unless under ten or over fifteen. The testator also directed that if funds were sufficient for the purpose knickers were to be provided for boys similarly qualified who resided in certain other parts of Surrey. It was contended, on the one hand, that the trust was a good charitable gift, and on the other that the fund was *bona vacantia.*

EVE, J., in a reserved judgment, said the question was whether the testator had effectively created such a charity as he contemplated, namely, a charity in the legal sense of the word. Was the object of his benefaction the relief of poverty? He did not think it was. None of the conditions necessarily imported poverty, nor could the recipients be accurately described as poor persons. He could not hold the trust to be a legal charitable trust. It was argued that the disposition might be treated as charitable by reason of its application being restricted to prescribed areas. But a trust which was not a charitable trust could not be changed into a charitable one by limiting the area in which it was to operate. He must declare the trusts of the residuary estate void and that the estate devolved as on intestacy.

COUNSEL: *Wilfrid Green*; *Vaisey*, K.C., and *Lavington*; *Stafford Crossman* and *J. H. Stamp.*

SOLICITORS: *Ashurst, Morris, Crisp & Co.*; *Tucker, Hussey & Martin*, for *Kempson & Wright*, Farnham; *The Treasury Solicitor.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

King *v.* King and Evans.

Lord Merrivale, P. 14th October.

DIVORCE—HUSBAND'S PETITION FOR DISSOLUTION—HUSBAND CONTINUING TO LIVE UNDER SAME ROOF AS RESPONDENT AND CO-RESPONDENT—INTIMIDATION BY CO-RESPONDENT—SEPARATION DEED—WORDS IMPORTING LICENCE TO COMMIT ADULTERY—CONDONATION—CONNIVANCE—DECREE *nisi.*

This was an undefended petition for dissolution, which was remitted to London by MacKinnon, J., from Assizes. The question for consideration was whether the husband petitioner had been guilty of connivance in the following circumstances. The parties were married in 1915 and there were three children of the marriage. The husband was away during the week carrying on his trade—but spent the week-ends with his family at a cottage in the country, where he did some market gardening. The co-respondent subsequently came as a lodger. About a year afterwards, in 1926, the husband discovered that his wife was committing adultery with the co-respondent. The husband made repeated protests to the co-respondent, who replied by threatening to assault him and throw him out of the house. From that time onwards until the middle of 1928, the husband continued to spend the week-ends at the cottage, but did not have intercourse with his wife and he had his meals apart. The husband's excuse was that he had nowhere to go, and that he had to attend to his market gardening. On one occasion, when the husband protested, the co-respondent knocked him down. The co-respondent had a gun and the husband was afraid that he would shoot him. In 1928 the co-respondent's wife told the husband that she was going to institute divorce proceedings against the co-respondent and the husband then left the wife. Up to that time the husband did not know that he could obtain a divorce. In July 1928 the wife took out a summons against the husband for desertion. The husband sought the advice of a solicitor, with the result that the proceedings were compromised by a deed providing, *inter alia*, that the wife "may reside at such place or places with such person or persons as she may from time to time think fit." In November, 1928, the present petition was filed. In August, 1929 a supplemental petition was filed alleging continued adultery between the wife and the co-respondent. Counsel submitted that the petitioner was clearly not the author of his wife's adultery, nor did he acquiesce in it He could not be described as a man of any strength of fibre, who would be able readily to deal with the lamentable situation, and he at no time condoned his wife's conduct. It was imbecile and foolish to go on spending week-ends under the same roof, but imbecility and foolishness did not debar him from relief. With regard to the provisions of the deed, the authorities showed that where possible the court would place an innocent construction on words which might conceivably be interpreted as giving a licence to commit adultery. It was undoubtedly a mistake, so far as an ignorant man like the petitioner was concerned, that such words appeared.

Lord MERRIVALE, P., in the course of his judgment, said that the fact that the petitioner had spent week-ends under the same roof as the adulterous couple for a very considerable period made a strong case of his being accessory to the adultery, but he (his lordship) accepted the petitioner's statement that he was almost terrified to be at the cottage, and that he resented and resisted as far as he dared the carrying on of that adulterous relation. He was not an accessory although he seemed to be, It was not his fault. The respondent and co-respondent defied him. As to the question whether the words in the deed were a licence to commit further adultery and condonation of past adultery, the petitioner entered into the deed on the best advice he could get, but he never had any idea of consenting to the wife's living in adultery with the co-respondent when he executed it. He (his lordship) would pronounce a decree *nisi* and the papers would be sent to the King's Proctor for his consideration.

COUNSEL: *Clifford Mortimer* and *William Latey*, for the petitioner.

SOLICITORS: *Foster, Grave & Jay*, for *Philip Baker & Co.*, Birmingham.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Will—Right of Executors of an Annuitant who Predeceases the Purchaser of the Annuity to the Purchase Money.

Q. 1802. By his will, dated 12th July, W.H., who died 31st March, 1905, and whose will was proved 15th May, 1905, gave his residuary estate unto his trustees upon trust to pay the income thereof to his wife for life and upon her death to sell and convert the same into money, and to stand possessed of the net proceeds of sale in trust to divide the same into two moieties, and as to one moiety, "In trust to apply the same in the purchase in the names of my trustees of an annuity for the life of my daughter S.L.H. and to pay the same when purchased to the said S.L.H. accordingly And I declare that both the said annuities shall be for the separate use of my said daughters during any coverture and without power of anticipation And I declare that both the said annuities shall be purchased as soon as conveniently may be after the decease or second marriage of my said wife and if possible from Government through the medium of the Post Office Savings Bank and if they cannot be so purchased then from one of the public offices or companies concerned in granting annuities." S.L.H. died in the widow's lifetime leaving all her property to her husband. What is the duty of the trustee of W.H.'s will with regard to the moiety of residue directed to be applied in the purchase of an annuity for S.L.H. ? We conceive that S.L.H. having died possessed of a vested interest in the moneys, it is open to her husband as the executor and beneficiary under her will to call upon the trustee to pay over to him the capital money of the moiety of residue, the direction in regard to purchasing an annuity failing in the circumstances, or being at any rate capable of being over-ridden if the husband elects to call for the capital in lieu of the purchase of the annuity. Please confirm.

A. We express the opinion that the moiety of the residue now passes under the ultimate residuary bequest (if any) or (failing such bequest) as in partial intestacy, and this because (1) there was a prior life interest, (2) the annuity was to be purchased in the names of the trustees, and (3) even if S.L.H. had issue who succeeded her, s. 33 of the Wills Act, 1837 (1 Vict. c. 26) can have no application as the annuity was for the life only of S.L.H. See, on the "point," "Tudor's pending Cases in Conveyancing, etc." p. 520 of fourth edition, and cases there cited, viz., *Power* v. *Hague*, 8 Eq. 262; *The Draper*, 58 L.T. 942; *The Sinclair* [1897], 1 Ch. 921, and "White and Tudor's pending Cases in Equity," pp. 852 and 853 of Vol. I of eighth edition, and further cases there cited, viz., *Barnes* v. *Rowley*, 3 V. 305; *Palmer* v. *Crawford*, 3 Swans. 482.

Sale of an Undivided Share.

Q. 1803. Prior to 1926 freehold ground rents were conveyed to A, B and C as tenants in common, and it is assumed that on 1st January, 1926, the premises became vested in them as joint tenants upon the statutory trusts. A and B are now the surviving trustees, and B now wishes to sell her third share. Apart from appointing new trustees, which would involve payment of A's costs, how should such a sale be effectively carried out ?

A. B's interest is now equitable only, fixing merely a third of the net proceeds of sale and of the net rents and profits until sale. She should simply absolutely assign her interest for the agreed price. Notice of the sale should be given to the trustees.

Will—Settled Freeholds—Estate Duty.

Q. 1804. A testator whose decease was subsequent to August, 1914, left certain of his freehold properties in trust to his son and daughters for life, and then to their respective children. It has been contended by the residuary legatees that the estate duty of the testator's estate on that portion of the realty which has been left in trust should be charged to and paid by the life tenants. The life tenants contend that the whole of the estate duty should fall as a charge against the residue.

A. The contention of the residuary legatees seems to us justified. The settled freeholds did not pass to the executors of the testator as such (but by virtue of L.T.A., 1897, Pt. I), and they therefore pay their own estate duty: F.A., 1894, 57 & 58 Vict. c. 30, s. 9 (1).

First and Second Mortgages pre-1926—Vacation of First Mortgage—Effect.

Q. 1805. A mortgages freehold premises to X in 1921. Subsequently in 1924 A mortgages the same premises to his bank to secure his current account, the bank taking the usual printed form of mortgage to a bank and in 1926 the bank registers a land charge "C.1," under Land Charges Act, 1925, s. 10. In 1929 A draws money on his current account to pay off X, and X executes a vacating receipt under L.P.A., s. 115, stating payment was made by A. At the request of A and the bank, X hands the deeds of the property to the bank. The editor's note to "Prideaux's Precedents in Conveyancing," 22nd ed., vol. 2, p. 306, states: "where a second or subsequent mortgagee pays off a first or prior mortgagee he should take a transfer, for having the immediate right of redemption no transfer will be implied under T.P.A., 1925, section 115." Does the vacating of the mortgage by X, as above, and the handing over the deeds, automatically vest a term of 3,000 years in the bank, who before only had a term of 3,000 years less one day, or should the bank, in order to get in the outstanding term, vacate their mortgage of 1924 and take a fresh mortgage from A ? As all second mortgages not protected by deeds would be registered as a land charge, Class C.1, and if, on receiving the deeds, the bank's mortgage automatically becomes a first mortgage, we fail to see the point in the learned editor's note on p. 306 as above, that a transfer should be taken or that it matters that a transfer is implied or not.

A. We regret that our subscriber's difficulty is not fully understood. In the "Point" submitted, the first mortgage was not paid off by the second mortgagee, but by the mortgagor, for the fact that he obtained the money from the bank (the second mortgagee) through his account, which was secured by the second mortgage, does not, in our opinion, make the redemption the bank's redemption. The vacation of the mortgage by X in this case does not vest the 3,000 years' term in the bank—that term simply ceases (L.P.A., 1925, s. 116). The same cesser would have taken place if the bank had made and been expressed to have made the payment. If, therefore, a second mortgagee wishes to obtain the first mortgage term he must take an express transfer. We doubt whether there is much advantage in obtaining it.

A UNIVERSAL APPEAL.

To Lawyers: For a Postcard or a Guinea for a Model Form of Bequest to the Hospital for Epilepsy and Paralysis, Maida Vale, W.9.

"APPEALS" WHICH SHOULD NOT BE DISMISSED.

On this occasion last year we felt it our duty to call special attention to the various appeals being made on behalf of the sick and destitute as well as of all those who, being the victims of misfortune, deserved at this season consideration and assistance from others who were more fortunate in their circumstances. The pleasure of giving is admittedly greater when it is realised it can be done with discrimination, and it is to the advantage of those, on whose behalf we again appeal, that there are so many agencies in existence so well qualified for the task of distribution, that all those who respond can feel confident that every penny received will be applied to the best advantage. The following may, therefore, be regarded as some excellent examples of those institutions which are not only deserving, but are badly in need of your support :—

There is no happier company of boys, girls and babies than are to be found in Dr. Barnardo's Homes. These homes have to-day about 9,000 in their family circle who may be said to have thus entered the "Doorway to Happiness," and whilst more than 105,000 have been welcomed, an average of five new-comers enter this doorway daily under the Charter, "No destitute child ever refused admission." No less than 2,501 children were admitted in 1928, and in the first nine months of 1929, 1,800 have already been received. This institution is proud of the fact that nearly 20,000 children and young people were dealt with last year by the Homes, and 18,053 placed out equipped for the battle of life. Up to the present time about 35,000 have been placed in the Dominions, and are doing their bit to build up the British Empire overseas. Truly, a great work.

Nearly 3,000 blind and crippled girls are learning how to earn their living at John Groom's Crippleage, Seckforde-street, Clerkenwell, whose Christmas will be very different from those of their more fortunate sisters. All who have the good fortune to possess good health and a sound body to-day owe a debt which can be paid in part to the Superintendent of the Crippleage at the above address.

The N.S.P.C.C. is the Children's Champion. Its work, alas! lies not only in the poorer quarters of our great cities, but in some of the better-class neighbourhoods as well. Drink is a frequent cause of brutality to children—drink, bad company, and a numbed mind. The N.S.P.C.C. makes a child's life worth living. It rescues the child, mothers it, and ensures that it is clothed and fed. It seems incredible that a country such as this should need a Society of this description, but even to-day the need for its work is being demonstrated daily; no less than 1,958 cases were dealt with last year. Your help to stop the suffering caused to little children by vice, and often ignorance, is needed urgently, and a gift will be welcomed by Mr. William J. Elliott, Director, Victory House, Leicester-square, W.C.2.

"Food, Shelter, Raiment, the wherewithal to Live," is the bugle call of the Church Army, founded by that great veteran-priest, Prebendary Carlile, C.H. This Christmas the Army can be helped in such ways as assisting to provide old folks or young children with a real Christmas dinner and party, by sending parcels and money for distribution among poor and deserving people and by helping young people in bad homes and evil surroundings. All this, and much more, the Church Army is doing. The headquarters are at 55, Bryanston-street, W.1.

The work and influence for good of the British Sailors Society is so thoroughly well understood that it is only necessary to mention here that it had fifty stations in the war zone—1914–1919—where over forty-two victims from 1,264 mined and torpedoed ships were received and succoured, whilst the cost of relief to British seamen prisoners of war exceeded £52,000. In many of the principal ports of the world, homes and hospitals are now maintained where chaplains and port missionaries are ready and eager to help seamen at any hour of the day or night. Over 18,000 seamen are members of the Sailors Brotherhood which includes men of thirty nationalities.

The only test for admission or treatment at the Cancer (Free) Hospital, Fulham-road, is that the applicant is suffering from cancer, and is too poor to pay for medical advice, it being sufficient that the case is one of cancer, and that the sufferer is in straitened circumstances. The horrible nature of cancer and the necessity for skilled nursing and constant attention, give the cancer hospital a distinctive value, whilst at the same time it is much more trying and difficult than that of a general hospital.

If any emphasis upon the claims of the Cancer Hospital were needed, it is only necessary to refer to the answer given by the Parliamentary Secretary to the Ministry of Health in the House of Commons recently (see The Solicitors' Journal, 23rd November, 1929) to the effect that the average number of deaths from cancer in this country in each of the years 1926, 1927 and 1928 approached 55,000.

Of the 2,265 officers and men who have come under the care of St. Dunstan's since its foundation, according to an actuarial report by Mr. R. G. Maudling, 1,322 will still be living twenty years hence, whilst in forty years, 445, all over sixty-five years of age, will be alive. In reminding our readers of the claims of St. Dunstan's, it should be emphasised that however complete the training which St. Dunstan's gives to the men, they will be blind always, and because of it, they will need life-long supervision and care. "While memory lives" should be read by all who must feel that they have a share in the solution of so great a problem.

It is difficult to make appeals sufficiently striking to enable people to realise the painful position of distressed gentlefolk who, though in dire circumstances, shrink from making their wants known, and consequently do not get the relief that would be granted if there was more publicity. The cases submitted to the Distressed Gentlefolks' Aid Association show a sad record of solitary monotonous lives, accentuated by insufficient food and clothing, and often accompanied by illness or infirmity. Subscribers may be assured that sympathetic and careful consideration is afforded to each application at the monthly meetings of the Committee, preference being shown to the most infirm and elderly, and practical help given as far as the funds of the Association permit. Will you help this Christmas?

From small beginnings a century ago the Royal Free Hospital has become one of the most important general hospitals in London, and specialises in all branches of preventative medicine, the Board being convinced that preventive measures in the care of the mothers of the nation are the foundation of national health. Immense general progress has been made in the national health during the last twenty-five years, but nothing comparable has been attained in the hygiene and safety of maternity, the mortality rate having remained practically stationary since 1900. This means that in fulfilling their supreme service to the nation 3,000 women in Great Britain die in child-birth every year, many thousands more being permanently injured in health. This is a most serious loss at a time when, as Sir George Newman, the Chief Medical Officer for the Ministry of Health, pointed out some time ago: "We can least afford to part with so many women at the most important and fruitful period of their lives as potential contributors to the race and as home builders." The Royal Free Hospital provides special facilities

for the treatment of maternity cases and the diseases of women, and was the first teaching unit of these subjects in the University of London. Ample opportunities are given for research and for the education of students and graduates as obstetric specialists. It was among the first general hospitals to incorporate an ante-natal department, with the result that its maternal mortality rate is *exceptionally* low.

The demand upon the maternity department, designed to afford assistance to complicated maternity cases, is exceedingly heavy, as owing to the lack of anything like suitable accommodation in their homes expectant mothers crowd to the hospital though many are refused daily only for lack of sufficient beds.

Donations will be most gratefully acknowledged by the Hon. Treasurer, The Royal Free Hospital, Gray's Inn-road, W.C.1.

The Shaftesbury Society and R.S.U., true to its motto "Love-Serve," continues (in its eighty-sixth year) its study of "the condition of the people question" in the poverty areas of Greater London, and adapts and extends its organisation of varied service, especially to the masses of children and young people living in overcrowded rooms in squalid and congested districts.

But the emphasis is on the earlier formative years, and the 5,000 voluntary workers are chiefly busy with Sunday School Classes, Children's Services, Scouts, Guides, Brigades, Bands of Hope, and with ministry to many of the 8,700 cripples on the Society's register and in the 117 Parlours in which the majority of them gather.

The Society runs four residential schools at the seaside for crippled and ailing children—also holiday homes and summer camps—over 10,600 fortnights were given last year.

Gifts of money or of goods will be gratefully acknowledged if sent to Mr. Arthur Black, General Secretary, John Kirk House, 32, John-street, W.C.1.

The Hospital for Epilepsy and Paralysis makes a special appeal, for it includes in its scope patients from all over the world suffering from every form of nervous disease, of which there are over 100 varieties, many of these, such as hemiplegia or "stroke," creeping palsy, tumours, cancerous and otherwise, of the brain and spinal cord and that dreadful malady encephalitis lethargica, and epilepsy, which has been known all down the ages, must be familiar to our readers.

Contributions should be addressed to the Secretary at 4, Maida-vale, London, W.9. W. P. H.

In Parliament.

Progress of Bills.

House of Lords.

Mental Treatment Bill [H.L.]. Read a Second Time and committed to a Committee of the Whole House. 28th November.

Chiropodist (Registration) Bill [H.L.]. Presented. 4th Dec.

Royal Assent—Widows', Orphans', and Old Age Contributory Pensions Bill. 6th December.

Expiring Laws Continuance Bill. Read a Second Time and committed to a Committee of the Whole House. 5th December.

Road Traffic Bill. Read a Second Time. 5th December.

Poor Law Bill [H.L.]. Read the Third Time, and passed. 5th December.

House of Commons.

Education (Scotland) Bill. Read a Second Time and committed to a Standing Committee. 5th December.

Industrial and Provident Societies (Amendment) Bill. Read a Second Time. 6th December.

Small Dwellings (Mining Subsidence Compensation) Bill. Motion for Second Reading. Debate adjourned. 6th December.

The Third Parties (Rights Against Insurers) Bill, which confers on third parties rights against insurers of third-party risks in the event of the insured becoming insolvent, has been amended by Standing Committee "A" by the inclusion of a new clause providing that where an insured person had incurred a liability to a third party and then went bankrupt, with the result that his rights against the insured became transferred to and vested in the injured person, it should be the duty of the insurance company to give the necessary information to the third party; and also a new clause providing that no settlement or agreement made between the insurer and the insured, after liability had been incurred to a third party, should be effective to defeat or affect the rights to which the third party would, but for such settlement or agreement, be entitled to, subject to further consideration, with a view to making it watertight before the Report stage.

A new clause making the measure applicable to Scotland was agreed to, and the Bill as amended was ordered to be reported to the House. 6th December.

Unemployment Insurance (No. 2) Bill. Considered in Committee. 9th December.

Highland and Islands (Medical Service) Additional Grant Bill. Read the Third time and passed. 9th December.

Questions to Ministers.

"THE MUNICIPAL REVIEW."

Mr. BROAD asked the Minister of Health whether he is aware that the Association of Municipal Corporations, which is maintained by subscriptions paid by local authorities and sanctioned by his Department, has announced the publication of a monthly journal to be called "The Municipal Review"; and whether, seeing that this journal *is intended to deal with every phase of local government activity* and cannot therefore be regarded as a circular or periodical devoted to the legal or other aspects of local government for the information of persons whose duties are in that sphere, and that this journal is designed for the acquisition of trading profits, he will consider the desirability of withholding his sanction to contributions from the rates being used for its maintenance?

Mr. GREENWOOD: Subscriptions to the Association of Municipal Corporations do not require my sanction. I am advised that municipal authorities may properly subscribe to, and purchase the literature of an association for the purpose of securing information as to any of the functions of the authority. I have been informed of the publication to which my hon. Friend refers, and *I am of opinion that it will be of advantage to local government.* 10th December.

MINERAL ROYALTIES.

Mr. LAWTHER asked the Secretary for Mines if he intends to introduce legislation for the abolition of all mineral royalties other than royalties on coal?

Mr. TURNER: No legislation on this subject is at present proposed, other than the legislation already announced to deal with royalties on coal. 10th December.

COAL INDUSTRY (GOVERNMENT PROPOSALS).

Major THOMAS asked the President of the Board of Trade whether he has received any communication from the Cardiff Chamber of Commerce concerning the Government's proposals regarding the coal industry, stating that those proposals will tend to increase the price of coal; and what steps he proposes to take to safeguard the consumer against any increase in the price of a commodity which will have the immediate effect of raising prices all round?

Mr. W. GRAHAM: I have received a resolution from the Cardiff Incorporated Chamber of Commerce relative to the proposals of the Government concerning the coal industry. As regards the second part of the question I must ask the hon. and gallant member to await the introduction of the Bill. 10th December.

SUICIDE BY MEANS OF COAL-GAS POISONING.

Dr. Waldo, in holding two inquests on suicides recently, said that a striking increase in cases of suicide throughout Great Britain had occurred of late years, there being one and a half as many cases at the present time, after allowing for the increase in population since 1856. The majority of cases heading the list were due to poisoning by carbon monoxide contained in coal gas. Next in point of frequency came drowning. The same order of frequency, for 1928, obtained in his jurisdictions in the City and Southwark—closely followed by "Lysol" poisoning, which by the way is so easily obtained.

INCORPORATED LAW SOCIETY OF LIVERPOOL.

ANNUAL GENERAL MEETING.

The one hundred and second annual general meeting of the Incorporated Law Society of Liverpool was held in the Law Library, 10, Cook Street, on Monday, the 25th ult.

There was a large attendance of members, which included Mr. A. E. Chevalier (President) in the chair, Messrs. E. L. Billson, J. C. Bromfield, W. H. T. Brown, F. H. Edwards, J. G. Kenion, Sir Cherles Morton, Messrs. G. A. Solly, P. N. Stone (Vice-President), F. Weld, C. W. Wright (Hon. Treasurer) and L. S. Holmes (Hon. Secretary).

The notice convening the meeting, together with the Committee's Report, having been taken as read, the President delivered the following address :—

Gentlemen, in the first place I desire to express my very real appreciation of the high honour conferred on me during the past year in being elected to the office of President of this Society which has, for so many years, occupied a position well in the fore-front of provincial Law Societies, and the chair of which has been worthily filled by many eminent Liverpool lawyers. For upwards of forty-five years it has been my privilege to be associated in one way or another with this Society, first as a student, then as an ordinary member, subsequently for a number of years as a member of the Committee, and finally for several years as an officer, and throughout that lengthy period the affairs of the Society have always been to me a matter of great interest.

My next duty must be to refer, with regret, to the losses we have sustained through death this year in the Society, fewer in number, fortunately, than in recent years, but comprising several well-known members, two at least of whom have in the past rendered excellent service, not only to our Society, but to the community in other spheres. Mr. John Cameron was President upwards of twenty years ago, and took a very real interest in the work of the Society and of the Board of Legal Studies over a long period. Mr. Arthur S. Mather was a member of the Committee for fifteen years of a busy life. He presided over the Society in 1901 and many of those who, like myself, were then comparatively young men, will remember with pleasure the cordiality and kindness with which, during his year of office, he and his family welcomed us to dinner in his home. In later years, Mr. Mather entered the City Council, of which he became an Alderman, and in 1926 served the office of Lord Mayor with distinction.

I am sure we shall all share in the regret felt at the passing of the Right Honourable Viscount Mersey, perhaps better known to us in former days as Mr. Justice Bigham. He was much sought after as a leader on the Northern Circuit. He, proved an eminent judge and he was not unmindful of the support which Liverpool gave him while he was at the Bar.

As you may have seen from the Report of the Committee which has been circulated, Lord Mersey showed his continued interest in the Society by sending us, on the occasion of our centenary, a handsome donation, with which the Society have established a fund to benefit the clerks of Liverpool solicitors, a forerunner of the larger and more comprehensive pension scheme recently initiated by The Law Society to meet a similar need throughout the country. This latter scheme, however, has not, so far, met with any wide-spread approval from our members or their clerks.

It is, I venture to think, characteristic of Liverpool solicitors that they are generally able to settle amicably among themselves any differences of opinion which may arise in practice, and possibly the fact that our conveyancing referees have only been called upon, during the past year, to deal with one case may be regarded as supporting this view.

In the important matter of legal education, Liverpool students continue to worthily uphold us. The "Timpron Martin," "John Atkinson" and "Rupert Bremner" Gold Medals for the year have all been awarded and two candidates, Mr. Haines and Mr. Creak qualified for the "Enoch Harvey" Prize by being placed respectively first and second in the First Class at the June Honours Examination, an exceptional distinction on which I think we, as a Society, may offer them our congratulations.

The useful efforts of the Associated Provincial Law Societies, and especially the valuable work done in this connexion by Sir Charles Morton and by the ex-president, Mr. W. H. T. Brown, as secretary, are well worthy of mention. The attendance of delegates from all parts of the country at the meeting of the Associated Societies which discussed the recommendation of a special committee of the council of The Law Society, that the society should present a Bill to Parliament to provide, by means of an addition to the certificate duty, a relief fund to be applied at the discretion of the council in or towards payment of losses sustained in consequence of professional misconduct of solicitors was probably much the largest on record. The subsequent conference of delegates from the various provincial societies with the council of The Law Society on the same subject also attracted a large and representative attendance.

The report of the special committee and the proposed Bill were carefully considered in our committee and it became evident that the members of the committee were not in favour of the proposal. In consequence, the delegates, representing our society, opposed on both occasions the adoption of the committee's report and the promotion of the suggested Bill. The report was eventually referred back to the council for reconsideration but no further definite step has as yet been taken. It is probable, however, that, in some form or other, more will be heard of this subject in the future.

I would like, in passing, to draw your attention to the paragraph in the draft report in reference to interlocutory applications in actions transferred to the commercial list which are proceeding in the District Registries of Liverpool or Manchester.

On the invitation of the Committee of Judges of the King's Bench Division, the Vice-President, accompanied by Sir Charles Morton and also by Mr. F. H. Edwards, who was instrumental in bringing the matter before our committee, had a very useful interview with the Committee of Judges, with the result that the inconvenience complained of has been speedily removed and a regulation, the draft of which was submitted to our society and to the Manchester Society and approved by both societies, has been adopted by the judges, and, since the issue of our report, has been approved by the Lord Chancellor.

It is to be regretted that Parliament has been unable to devote the necessary time to deal with some much over-due legislation, for the placing of the Crown, with certain reservations, in much the same position as the subject, as regards power to sue and liability to be sued in the County Court, as well as in the High Court, and also the making of the Crown liable to be sued in tort.

In 1921, a strong committee, comprising the Lord Chief Justice, the Master of the Rolls and a number of other eminent lawyers, was appointed by the Earl of Birkenhead, then Lord Chancellor, to consider the desirability or feasibility of these proposals as possible subjects of legislation. In 1924, however, before the Committee had concluded its deliberation, Lord Haldane, the succeeding Lord Chancellor, requested the committee to prepare a Bill on these lines, on the assumption that the alterations in law involved in them were both desirable and feasible. The committee reported in 1927 to the late Viscount Cave, who had, in the meantime, become Lord Chancellor, and submitted a draft Bill, the Crown Proceedings Bill. This Bill after various criticisms and suggestions had been made upon it by twenty-one important government departments, was introduced, in the form recommended by the committee, into the House of Commons, as a Private Member's Bill, but, for lack of Parliamentary time, could not be proceeded with. By the terms of this Bill, the procedure was to be no longer by information, as, for example, in the recent "Goddard" case, or by petition of right but, as nearly as possible it was to be assimilated to the procedure in litigation between subjects, including discovery with certain safeguards, and the liability to pay as well as the right to recover, costs. Nearly a decade ago, our friend Sir Charles Morton made reference to this subject in his presidential address to The Law Society and pointed out that, in many instances the procedure of that day, which still obtains, frequently amounted to a flat denial of justice and, in some cases, operated as an oppressive exercise of the Crown Prerogative. He further expressed the view that the existing process in litigation, both against and by the Crown, was circuitous, costly, unsatisfactory, and, in certain instances, oppressive and that it was astonishing it had survived so long. In this matter Sir Charles is no longer "a voice in the wilderness." He is in excellent company especially as, during the early days of the present month, the Solicitor-General is reported to have stated in the House of Commons, that the draft of a Bill on the lines of the Crown Proceedings Bill, 1926,

was in an advanced stage of preparation and that he understood the Lord Chancellor proposed to introduce it in another place at a very early date.

We can therefore now look forward, with some confidence, to the time, in the near future, when the remedies proposed by this new Bill will become operative, and the evils complained of disappear.

I now turn for a brief space to a somewhat kindred subject which looms large to-day, by reason of the strong views expressed upon it, both in their speeches at important functions and in publications, by such distinguished men as Lord Hewart and Lord Sankey, and by the late Dr. F. J. Port, a Doctor of Laws, of and who, I believe, held the responsible office of Superintendent of Examinations in the University of London in his recent book entitled "Administrative Law." I refer to what was aptly described, in a paper read at the recent Provincial Meeting of the Law Society at Bournemouth, as "The Rise of Bureaucracy or the growing interference of the Government Official with the liberty of the subject," and has been even more tersely defined by the Lord Chief Justice in his book, just published, as "The New Despotism."

The system objected to has also been briefly, yet accurately, described as the gradual and progressive transfer of an extensive jurisdiction in matters intimately affecting the rights of the private citizen from the courts of law to the officials of executive government departments. We must all admit, even if reluctantly, that sections of Acts of Parliament are often expressed in very involved language, difficult to construe and, not infrequently, requiring the assistance of the courts to elucidate their exact meaning. The responsibility for much of this obscurity must I think, he placed on the members of both Houses of Parliament. In the course of discussion on a Bill, amendments, or, more correctly speaking, revisions, in particular clauses are frequently made, sometimes without proper regard to other provisions in the Bill, with the result that clauses become twisted and distorted from the clear meaning which the parliamentary draftsman had been originally instructed to convey and in which, at the outset, he had been successful. But Lord Hewart goes further and expresses, as his considered opinion, the view that, on occasions, the ambiguity in drafting would appear to be not wholly unintentional and may sometimes come from a fixed and settled determination not to set out the matter clearly and completely for—to use his own words—"to be intelligible is to be found out and to be found out is to be defeated." In Lord Hewart's view, the aim of the departmental official, on occasions, is to induce Parliament to provide the mere skeleton of the project and to leave the official to clothe it and give it his own outlook, with power to instil into it obedience to his decisions and to shut out any sort of appeal to the regular courts of law. In a Foreword by the present Lord Chancellor (then Lord Justice Sankey) to Dr. Port's interesting book, which deals exhaustively with the history of such procedure from mediæval times, the Lord Justice expresses the view that the time is now ripe for considering to what extent, if at all, the system should be continued and under what procedure. He, very fairly, however, points out what we all know, namely, that many of the questions and situations which arise under Acts of Parliament, relative to our present-day affairs, are of a purely administrative character, and he specially instances those which are concerned with unemployment and sickness insurance. Instances which will also readily come to mind, amongst numerous others, are matters under the control of the Board of Education, the Ministry of Health, the Ministry of Labour, the Electricity Commissioners, the Insurance Commissioners, the Income Tax Commissioners, the Controller General of Patents and Designs, the Superintendent of the Board of Trade and even the General Medical Council. These administrative bodies or persons all exercise certain judicial functions with, in some cases, little or no legal or judicial training. Dr. Port discusses in his book the relation of administrative bodies to judicial power and compares the English method of what was until recently, uncontrolled law, with administrative controlled law in America, established by the imposition of certain constitutional standards, without provision for any Crown prerogative, but with the opportunity, though not the necessity of securing a proper hearing, the chance to be present during the taking of evidence, and the right to know of what the evidence of the other party consists and to offer refuting evidence. He also deals very fully with the corresponding French Droit Administratif, consisting, to-day, of a uniform system of administrative tribunals coupled—in by-gone days, though not, of course, to-day—with a very powerful Crown prerogative. There appears to be no satisfactory equivalent in English for the expression "Droit Administratif," but its principal object is very largely the protection of the citizen against the encroachment of the authorities. It is, moreover, a regular system of law, applicable to all disputes between the Government or its servants on the one hand and private citizens on the other hand.

In the course of a review of Lord Hewart's book, *The Times* remarks in this connexion, "Attempts have been made to compare the arbitrary power of the departmental official with the administrative law of France and with other Continental systems, but they break down at every turn. These systems are indeed incompatible with what we, in this country, have for centuries regarded as fundamental principles of liberty and justice. But they are at least systems of law with established courts, regulations and precedents and they are administered by trained lawyers who state and record the reasons for their decisions. The practice of some of our British departments under their statutory power is no rule of law at all." In a leading article, in the same issue, the editor reminds us that, at the Lord Mayor of London's banquet to the Judges in July last, the Lord Chancellor drew attention in very pointed fashion to the "growing tendency to transfer decisions on points of law or fact from the Law Courts to the Minister of some Government department," and to the general agreement both within and without the profession that it is a matter which requires further and careful investigation.

The writer of the paper read at Bournemouth averred that to such an extent had the custom of "Legislation by Department" grown that, in 1920, eighty-two Acts of Parliament were passed, and no less than 2,473 Statutory Rules and Orders were made and issued. In 1927, we are told, there were forty-three public Acts of Parliament and more than 1,400 of these Orders, Rules and Regulations registered in that year, while in the Rating and Valuation Act, 1925, s. 67 (1) the Minister is even given power to "modify the provisions of this Act so far as may appear to him necessary or expedient"—truly a far-reaching provision which might easily become oppressive. George Bernard Shaw, in a serious vein, during one of his recent broadcastings, thus summed up rather neatly the point at issue. "We cannot govern ourselves yet if we entrust the immense powers and revenues which are necessary to an effective modern government, to an absolute monarch or dictator he goes more or less mad, unless he is a quite extraordinary and therefore very seldom obtainable person. Besides, it is not a one-man job; it is too big for that. If we resort to a committee or parliament of superior persons they will set up an oligarchy and abuse their power for their own benefit. Our dilemma is that men in the lump cannot govern themselves and yet, as William Morris put it, no man is good enough to be another man's master. We need to be governed and yet control our governors."

This many-sided and ever-increasing evil of Bureaucracy is no new invention. So far back as 1912, our then President, Mr. Robert Norris, referred to two subjects which, he said, were at that time causing anxiety, namely, first, the attempts by the executive to interfere with the judiciary, and, secondly, the increase of officialism.

In the following year, we find his successor, Mr. Bromfield, reminding us of the same evils and pointing out the increasing seriousness of the practice, on the part of the Legislature, of empowering a Department of State or a specially constituted body or even a public official, to make and issue rules, having the force of statute, regulating, and even extending, the application of the Act to which the rules relate and to determine, without appeal or, in fact, without recourse to the courts, questions arising under a particular enactment. In his view, supported as it was at that time by the public utterances of the late Viscount Alverstone, the increase, even then, of the bureaucratic element in the government of this country, threatened to become so serious a menace to the liberty of the subject that it behoved all who were interested in the nation's welfare to take every means in their power to warn the public of the impending danger.

Lord Hewart thus describes the situation created through the decision of important points being left to some official in a particular department. He says: "One of the parties is absent; there is no hearing; the decision is given by the opposite party; and there is no appeal," and in suggesting remedies for what he regards as a deplorable and un-English state of things, he asks: "Is it too much to hope, in the first place, that the worst of the offending sections in Acts of Parliament may be repealed or amended? And in the second place, is it not comparatively easy to prevent similar sections from being enacted in future? To this end, what is necessary is simply a particular state of public opinion and in order that that state of public opinion may be brought into existence what is requisite is simply a knowledge of the facts." In this, as in other fields, "prevention is better than cure."

It would be presumptuous on my part to appear to differ from the conclusions thus stated by the Lord Chief Justice, I feel, however, I must remind myself and you all that, although public opinion in this country may move very

quickly on occasions, yet, generally speaking, it is difficult to arouse. Public support to what are regarded even as popular proposals is not easy to obtain and usually involves, as a preliminary measure, a thorough preparation of the ground. How much more difficult is it in the present case, when the ordinary citizen knows and hears so little of administrative law—and cares still less about it—to arouse in him or her any real enthusiasm for reform in such a matter!

The learned editors of a book published last year entitled "Cases in Constitutional Law" remark, in this connexion: "It would give much more satisfaction if the entire supervisory jurisdiction of the central departments was exercised in public and according to judicial forms. At present our administrative justice is too much of the 'hole and corner' variety."

It has been said that, in England, we have a legislature which is so powerful that it can "do anything but make a woman a man and a man a woman," but which, in practice, finds itself unable to perform half the work which falls within its own peculiar sphere. Consequently the real defence for the "new despotism" is necessity. Modern legislation is so complex and intricate in many of its subjects that it would be impossible to deal with every small point of difficulty arising out of it except by some administrative system such as now obtains in practically every important government department. I venture, however, to urge that, in almost every such case, an appeal to an independent and, at the same time, a judicial body should not be denied, under proper safeguards, to any aggrieved person. The permanency of the administrative staff and its flexibility are its chief virtues as compared with a judicial tribunal which cannot possess the special knowledge acquired—often out of a long experience—by departmental administrators, many of whom may themselves be trained lawyers. But what should be aimed at, in my submission, is:—

(*a*) The reduction of the risk of administrative authorities being, as often now occurs, judges in their own cause.

(*b*) That questions of law, as distinct from those of fact, as well as questions of mixed law and fact be never left wholly, without appeal, in the discretion of an administrative authority.

(*c*) That every effort should be made to reduce to a minimum the possibility of bureaucratic influence over administrative jurisdiction; and

(*d*) That all formal tribunals set up, under statute, for particular purposes should come under the supervision of the Lord Chancellor and not under that of the government department concerned.

The legal newspapers have recently, and under the heading, in one of them, of "Powers of the Bureaucracy" announced that the Lord Chancellor, after consultation with the Prime Minister and the Chancellor of the Exchequer has appointed a select committee under the chairmanship of the Earl of Donoughmore, K.P., and consisting of six Members of Parliament, two being women, several King's Counsel and other prominent men, including Sir Roger Gregory, the Vice-President of the Law Society, "to consider the powers exercised by or under the direction of (or by persons or bodies appointed specially by) Ministers of the Crown by way of (*a*) delegated legislation, and (*b*) judicial or quasi-judicial decisions: and to report what safeguards are desirable or necessary to secure the constitutional principles of the sovereignty of Parliament and the supremacy of the law."

May we venture to express the fervent hope that the deliberations of this committee will indeed result in all desirable or necessary safeguards being ultimately imposed by statute.

It only now remains, Gentlemen, for me, as this is the only available occasion, to say to you all how happy has been my year of office, how greatly I shall always value the universal kindness which has been shown to me, both within and outside of the Society, and how effectively I have been aided, in various ways, by the officers and by the members of the committee generally.

The excellent work of our efficient secretary is appreciated by all of us, and, speaking from my personal knowledge, I may add also by the Council of The Law Society.

We are also much indebted to our indefatigable and able assistant secretary, Mr. G. A. Richards, and we acknowledge with satisfaction, the loyal and willing service of the office staff.

It was moved by the PRESIDENT, seconded by the VICE-PRESIDENT, and resolved—

"That the report of the committee, together with the statement of accounts, be approved and adopted."

It was moved by Sir CHARLES MORTON, seconded by Mr. G. H. THOMPSON, and resolved—

"That the thanks of the meeting be given to the President for his address and that the same be printed and circulated as part of the report."

It was moved by Mr. J. H. NEVILLE, seconded by Mr. J. G. FISHWICK, and resolved—

"That the thanks of the Society be given to the officers and members of the committee for their services during the past year."

There being only nine nominations for the nine vacancies on the committee, the following gentlemen were elected for the ensuing term of three years: Messrs. B. Arkle, jun., G. E. Castle, A. D. Dean, G. B. Edwards, J. L. Freeman, L. S. Holmes, R. Mills Roberts, P. N. Stone and F. Weld.

Societies.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Hall, on Tuesday, the 3rd inst. (Chairman, Mr. G. Thesiger), the subject for debate was as follows:

MOOT.

Guests for a country house party were met at a station by the host's car in charge of the host's chauffeur. One of the guests, who was the host's brother and had driven the car on other occasions when the host had been present, drove the car from the station towards the house with the permission of the chauffeur (who had no express authority from his master to give such permission), and as a result of his negligent driving both the chauffeur and another guest riding in the car were seriously injured.

Motion: That (1) the chauffeur and (2) the injured guest can successfully sue the owner of the car."

Mr. S. H. Levine opened in the affirmative; Mr. J. F. Ginnett seconded in the affirmative. Mr. A. L. Ungoed-Thomas opened in the negative; Mr. P. H. North-Lewis seconded in the negative. The following members also spoke: Messrs. R. D. C. Graham, C. F. S. Spurrell, T. M. Jessup, S. Lincoln, J. M. Buckley, H. F. C. Morgan, W. M. Pleadwell, H. J. Baxter, C. B. V. Head, and also Mr. M. Bennett, a visitor.

The opener having replied, and the Chairman having summed up, the motion (1) was lost by one vote, and the motion (2) was carried by nine votes. There were twenty-six members and four visitors present.

At a meeting of the Society held at The Law Society's Hall on Tuesday, the 10th inst. (Chairman, Mr. J. C. Christian Edwards), the subject for debate was "That this House regrets the present worship of sport." Mr. J. F. Chadwick opened in the affirmative and Mr. K. Glazebrook opposed. The following members also spoke: Messrs. C. C. Ross, W. M. Pleadwell, T. M. Jessup, J. F. Gimmett, E. Lowden, S. Lincoln, Godfrey Roberts, H. N. Heath, E. G. M. Fletcher, H. J. Baxter, H. W. Daniels, R. W. Rye, M. Stowe, K. N. Dixon and C. N. Baker. The opener having replied, the motion was put to the meeting and carried by four votes. There were twenty-three members and two visitors present.

Sheffield Law Society's New Hall.

OPENING CEREMONY.

We regret, that owing to great pressure on our space this week, our report of the above is unavoidably held over until next week.—ED., *Sol. J.*

Legal Notes and News.

Honours and Appointments.

The Right Hon. EDWARD SHORTT, K.C., has accepted the post of President of the British Board of Film Censors. Mr. Shortt, who was educated at Durham School and University, was called to the Bar in 1890, took "silk" in 1910, and was Recorder of Sunderland from 1907 to 1918, when he was made Chief Secretary for Ireland. In the following year he became Home Secretary.

Mr. G. C. WOOD, Huddersfield, has been appointed Clerk to the Linthwaite Urban District Council.

The Right Hon. Sir BINOD C. MITTER has been elected an Honorary Bencher of the Honourable Society of Lincoln's Inn.

Mr. D. COUPE, solicitor in the Department of Mr. Norman L. Fleming, solicitor, Town Clerk of Bradford, has been appointed Assistant Solicitor in the office of Mr. Percy Saunders, solicitor, Town Clerk of Halifax.

Professional Partnership Dissolved.

Albert Young Hyland, Morrice Wilson Roger and Ernest Richardson, solicitors, 6 Great St. Helens, London, E.C.3 (Armitage Chapple and Co.) by mutual consent as from 15th November, so far as concerns M. W. Roger, who retires from the firm. A. Y. Hyland and E. Richardson will continue to practise under the style of Armitage Chapple and Co.

CENTRE FOR CANCER STUDY.

THE CANCER HOSPITAL (FREE) FULHAM ROAD, LONDON.

The Cancer Hospital has been in the forefront of cancer surgery for many years, and Dr. Robert Knox, the late director of its electrical and radiotherapeutic department, was one of the most noted radiologists in the world until his death. The hospital has employed radium in the treatment of cancer since 1913, and if the authorities have been cautious in putting forward claims for the efficacy of the treatment their reticence has been deliberate. The staff is now unanimously agreed that radium has an important part to play in the treatment of the disease. In addition to the projected course of advanced study, described below, the House Committee have recently approved the plans for an entirely new radiological block, which will be fitted with the most modern equipment and complete in every particular. Tenders for the work are to be sought at once. Approximately 70 beds are also to be added to the present 120. With this addition it is believed that the institution, with approximately 200 beds, will be the largest cancer hospital in the world. Hitherto all its patients have been admitted free, but radium treatment will in future be offered to middle-class patients at reasonable cost, as well as gratuitously to the poor. It is for these developments that the hospital is appealing for £150,000.

An important development on the lines of the recent statement by the Radium Commission is an advanced course of study in radiology which is to be held at The Cancer Hospital (Free), Fulham Road, London.

The course will deal with the aspects of the subject—its physics, the medical and surgical aspects, and its practical application—on a larger scale than has before been attempted in London. The course will begin on 21st January, and will be continued on succeeding Tuesdays and Thursdays until 10th April. Here, the principle of team-work which the Radium Commission advocates is to be applied. The course will consist of lectures and practical work, with demonstrations in both laboratories and hospital, and will be given by the following members of the staff: Dr. J. O. Harvey (director of the electrical and radiotherapeutic dept.), Dr. J. E. A. Lynham (assistant radiologist), together with Mr. W. V. Mayneord (physicist to the electrical and radiotherapeutic department) Dr. A. Piney and Miss Constance A. P. Wood, who are carrying out a scheme of research financed by the British Empire Campaign, in collaboration with the staff of the hospital, Mr. R. H. Jocelyn Swan (senior surgeon) and Dr. Stanley Wyard (assistant physician and medical registrar), will lecture on the relation and value of radiology to the practice of medicine and surgery. The several members of the surgical staff will each give demonstrations of the uses to which radium is applied during their operations.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	MR. JUSTICE EVE.	MR. JUSTICE ROMER.
M'nd'y Dec. 16	Mr. Hicks Beach	Mr. Ritchie	Mr. Jolly	Mr. Ritchie
Tuesday .. 17	Blaker	Andrews	Ritchie	*Blaker
Wednesday 18	More	Jolly	Blaker	Jolly
Thursday . 19	Ritchie	Hicks Beach	Jolly	*Ritchie
Friday 20	Andrews	Blaker	Ritchie	Blaker
Saturday .. 21	Jolly	More	Blaker	Jolly

DATE.	MR. JUSTICE MAUGHAM.	MR. JUSTICE ASTBURY.	MR. JUSTICE CLAUSON.	MR. JUSTICE LUXMOORE.
M'nd'y Dec. 16	Mr. Blaker	Mr. More	Mr. Andrews	Mr.*Hicks Beach
Tuesday .. 17	*Jolly	Hicks Beach	*More	Andrews
Wednesday 18	*Ritchie	Andrews	*Hicks Beach	*More
Thursday . 19	*Blaker	More	*Andrews	Hicks Beach
Friday 20	*Jolly	Hicks Beach	More	*Andrews
Saturday .. 21	Ritchie	Andrews	Hicks Beach	More

*The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

The CHRISTMAS VACATION will commence on Tuesday, the 24th day of December, 1929, and terminate on Monday, the 6th day of January, 1930, inclusive.

VALUATIONS FOR INSURANCE. It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac, a speciality.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (12th December, 1929) 5% Next London Stock Exchange Settlement Thursday, 19th December, 1929.

	MIDDLE PRICE 11th Dec.	INTEREST YIELD.	YIELD WITH REDEMPTION.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	84¼	4 14 11	—
Consols 2½%	52½	4 15 3	—
War Loan 5% 1929-47	100	5 0 0	—
War Loan 4½% 1925-45	93	4 16 9	5 2 9
War Loan 4% (Tax free) 1929-42	100	4 0 0	4 0 0
Funding 4% Loan 1960-1990	85	4 14 2	4 15 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	91½	4 7 5	4 9 9
Conversion 4½% Loan 1940-44	93½	4 16 3	5 2 6
Conversion 3½% Loan 1961	74¼	4 14 3	—
Local Loans 3% Stock 1912 or after	61½	4 16 0	—
Bank Stock	248½	4 16 7	—
India 4½% 1950-55	83	5 8 5	5 15 3
India 3½%	61½	5 13 10	—
India 3%	52	5 15 5	—
Sudan 4½% 1939-73	92	4 17 9	4 19 0
Sudan 4% 1974	83	4 16 5	4 19 0
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 15 years)	83	3 12 3	4 2 0
Colonial Securities.			
Canada 3% 1938	84½	3 11 0	5 3 9
Cape of Good Hope 4% 1916-36	92	4 7 0	5 7 6
Cape of Good Hope 3½% 1929-49	79	4 8 7	5 4 0
Commonwealth of Australia 5% 1945-75	91	5 9 11	5 10 3
Gold Coast 4½% 1956	92	4 17 10	5 1 0
Jamaica 4½% 1941-71	92	4 17 10	4 19 0
Natal 4% 1937	92	4 7 0	5 7 6
New South Wales 4½% 1935-45	83	5 9 9	6 5 0
New South Wales 5% 1945-65	89	5 12 4	5 14 6
New Zealand 4½% 1945	93	4 16 9	5 3 9
New Zealand 5% 1946	99	5 1 0	5 2 0
Queensland 5% 1940-60	90	5 11 1	5 13 9
South Africa 5% 1945-75	100	5 0 0	5 0 0
South Australia 5% 1945-75	90	5 11 1	5 12 3
Tasmania 5% 1945-75	93	5 7 6	5 8 3
Victoria 5% 1945-75	90	5 11 1	5 12 3
West Australia 5% 1945-75	92	5 8 8	5 9 6
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	60	5 0 0	—
Birmingham 5% 1946-56	100	5 0 0	5 0 0
Cardiff 5% 1945-65	99	5 1 0	5 1 0
Croydon 3% 1940-60	68	4 8 3	5 2 0
Hull 3½% 1925-55	76	4 12 1	5 4 0
Liverpool 3½% Redeemable by agreement with holders or by purchase	70	5 0 0	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	51	4 18 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	61	4 18 4	—
Manchester 3% on or after 1941	61	4 18 4	—
Metropolitan Water Board 3% 'A' 1963-2003	60	5 0 0	—
Metropolitan Water Board 3% 'B' 1934-2003	62	4 16 9	—
Middlesex C. C. 3½% 1927-47	82	4 5 4	5 1 0
Newcastle 3½% Irredeemable	70	5 0 0	—
Nottingham 3% Irredeemable	60	5 0 0	—
Stockton 5% 1946-66	100	5 0 0	5 0 0
Wolverhampton 5% 1946-56	99	5 1 0	5 1 6
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	79	5 1 3	—
Gt. Western Rly. 5% Rent Charge	97	5 3 1	—
Gt. Western Rly. 5% Preference	90	5 11 1	—
L. & N. E. Rly. 4% Debenture	74	5 8 1	—
L. & N. E. Rly. 4% 1st Guaranteed	71½	5 11 11	—
L. & N. E. Rly. 4% 1st Preference	64	6 5 0	—
L. Mid. & Scot. Rly. 4% Debenture	77	5 3 11	—
L. Mid. & Scot. Rly. 4% Guaranteed	73	5 9 7	—
L. Mid. & Scot. Rly. 4% Preference	68	5 17 8	—
Southern Railway 4% Debenture	77	5 3 11	—
Southern Railway 5% Guaranteed	95	5 5 3	—
Southern Railway 5% Preference	85	5 17 8	—

YOUNG Solicitor (either sex) required for London Suburban office. Salary £200–250, according to experience.—Box No. 278, Solicitors' Journal, 29 Breams-buildings, E.C.4.

LITIGATION Clerk wanted by Lincoln's Inn-fields firm. Mostly Chancery work.—Write, giving full particulars, Box 277, Solicitors' Journal, 29 Breams-buildings, E.C.4.

LAW.—Competent experienced Conveyancer (admitted) required in London Solicitors' office, preferably one accustomed to Building Society work.—Write stating age, previous experience and salary required to Box "L.C.," c/o Advertisement Department, 5 New Bridge-street, London, E.C.4.

LAW.—Wanted by City Solicitors, an experienced and skilled draftsman as managing clerk for conveyancing and company department; must act without supervision; liberal salary.—Write Box 272, Solicitors' Journal, 29 Breams-buildings, E.C.4.

WANTED by a firm of London Solicitors an Unadmitted Clerk who has had considerable experience in litigation departments of solicitors' offices and is accustomed to following up enquiries and taking statements of witnesses. First-class character absolutely necessary. No applications from persons employed by Private Detective Agencies will be considered.—Apply "X," Box 218, Solicitors' Journal, 29, Breams-buildings, E.C.4.

LONDON SOLICITORS require Admitted or Unadmitted Clerk capable of conducting litigation with slight supervision.—Apply, stating age, experience and salary required, to Alpha, Box 229, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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SOLICITOR, aged 25, Public School, M.A. (Cantab), experience in two country offices, and also one year in London, accustomed to acting under slight supervision, excellent references. Desires post in London, Devonshire or elsewhere, in January. Commencing salary £208.—Apply, Box 274, Solicitors' Journal, 29, Breams-buildings, E.C.4.

CLERK (30), experienced in County Court, High Court and Costs, Shorthand Typist, good general knowledge, requires situation. South preferred.—Box 276, Solicitors' Journal, 29 Breams'-buildings, E.C.4.

CONVEYANCING Clerkship required by experienced Draftsman, recently disengaged owing to amalgamation, sound knowledge of the new Property Acts. Also experienced in Probate and Trust matters and the practice of the Courts. Salary £208 or offer.—Write Box 279, Solicitors' Journal, 29 Breams'-buildings, E.C.4.

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YOUNG Solicitor desires position as assistant solicitor; willing to take small salary to gain experience.—Box 273, Solicitors' Journal, 29, Breams-buildings, E.C.4.

FULLY-QUALIFIED Accountant will assist solicitor in spare time. Extensive experience of income tax, executors' accounts, and all branches of accountancy.—Write "R.D.C.," 150, Ealing-road, Wembley, Middlesex.

SOLICITOR (24), Public School and Cambridge Graduate, experienced in Common Law and General Practice, desires an appointment with a good London firm. Some capital available in case of possible partnership.—Box 263, Solicitors' Journal, 29 Breams'-buildings, E.C.4.

SOLICITOR, Honours 1928, Managing Clerk of London firm, experienced in conveyancing common law, company, probate and general work, desires similar appointment with prospects, preferably Liverpool. Would undertake advocacy. Good salary.—Apply Box 255, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR (over 20 years' practical experience) Conveyancing, Probate, Trust, &c., desires Managing Clerkship. Moderate Practice. View partnership or succession. Good references.—Box 239, Solicitors' Journal, 29 Breams-buildings, E.C.4.

SOLICITOR, LL.B. (London), age 22½, requires position with London firm with opportunities for hard work and general experience. Previous experience, mainly conveyancing and debt collection; willing undertake advocacy; accustomed to act without supervision. Admitted 1928. Salary £250, rising by arrangement.—Apply Box 212, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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SOLICITOR (33), Welsh speaking, now conducting own practice in small provincial town, would consider taking up a salaried appointment in a larger sphere, where a provincial experience of conveyancing and probate work would prove of utility; could arrange to be available at short notice.—Box 195, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR (35), Cambridge graduate, desires Managing Clerkship. Good general experience.—Apply "Alpha," Box 320, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR (38), desires post as assistant, Conveyancing and general practice. Good references.—Box 160, Solicitors' Journal, 29 Breams-buildings, E.C.4.

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YOUNG SOLICITOR desires Clerkship with a view to partnership. Experienced in litigation, workmen's compensation and company law; good advocate. Small capital at disposal. Excellent references, "C.," Box 558, Solicitors' Journal, 29 Breams-buildings, E.C.4.

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SOLICITOR, public school, with good experience of conveyancing, probate, trusts, etc., with leading firms, requires post as Assistant, accustomed to interview clients. Good references. Salary by arrangement. Box 262, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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PRACTISING Solicitor would consider appointment as assistant where proper facilities would be given for the conduct of his own practice on terms. Experience mostly conveyancing and High Court litigation, some advocacy. London only.—Write "M.," Box 353 Solicitors' Journal, 29, Breams-buildings, E.C.4.

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EX-OFFICERS AND OTHER RANKS.

THE Proprietors of The Solicitors' Journal have placed this space at the disposal of THE BRITISH LEGION, OFFICERS' ASSOCIATION, EMPLOYMENT BUREAU, 3-4, Clement's Inn, Strand, London, W.C.2 (Telephone: Holborn 5769), to whom all replies should be addressed, quoting number of advertisement, date of insertion, and the name of this paper.

ENGINEER, F.S.I., F.R.C.S., experience fitting and machine shops, blast furnaces, coke ovens, collieries, surveys, mining, railway, surveys and construction. I.C. engines, motors and compressed air plant. Tube wells, air lift pumping plant, oil fuelling. Desires post home or abroad. 11292

REGULAR Army Officer, 37, fit, energetic, seeks employment as technical or sales manager in electrical engineering firm, nine years' extensive electrical and contracting experience in both Army and business. Widely travelled. 11140

EX GUNNER Major, Wykehamist, six years' business experience, urgently requires work, preferably in country, secretary, agent, or anything similar. 11326

ADVERTISER, capable of taking charge of small electrical (steam and gas) plant, or as electrical inspector to a corporation, or as shift engineer. Willing to go abroad. 11316

EXPERIENCED Physician would act as companion and reconditioner to elderly or unfit gentleman, or would act in any capacity to doctor, hydro or institution. One year at a command depot during the late war. 11332

RETIRED Regular Officer seeks position of trust, thoroughly experienced all branches clerical work, three years' farming S. Africa. One year private secretary. Three and a half years' clothing manufacturers S. Africa. Good organiser. Married, no family. Go anywhere. 11198

ADMITTED Solicitor, Ex-officer, with small connection, wishes employment at small salary and proportion of costs of work introduced, or office accommodation on mutual terms. 9350.

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SOLICITOR, general practice and clerk to local authority in growing South Coast town, has vacancy for articled clerk. Public school man preferred. Good prospects for suitable man used to country life.—Box No. 87, Solicitors' Journal, 29, Breams-bldgs., E.C.4.

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